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ABSTRACT

This congressional hearing considers legislation intended to provide additional work opportunities for inmates in the federal prison system and to help reduce the reliance of federal prison industries on traditional industries. Testimony includes statements, letters, written statements, and other materials presented by the following: U.S. senators and representatives and individuals representing the Workman Fund, Leavenworth, Kansas; National Committee on Community Corrections; Federal Bureau of Prisons; International Ladies' Garment Workers' Union; and Institute for Law and Justice. Appendixes contain the following: a Justice Fellowship statement on H.R. 703; a list of active projects with other Federal agencies; excerpt from an independent market study of UNICOR Federal Prison Industries, Inc.; excerpt from 1993 Summit on Federal Prison Industries; U.S. trade data; memorandum of understanding between the U.S. and China on prohibiting import and export trade in prison labor products; and newspaper article, "Firms Cited over Imports from China." (YLB)

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ED 376 291

PRISON INMATE TRAINING AND REHABILITATION ACT OF 1993

HEARING

BEFORE THE

SUBCOMMITTEE ON INTELLECTUAL PROPERTY AND JUDICIAL ADMINISTRATION

OF THE

COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

H.R. 703

PRISON INMATE TRAINING AND REHABILITATION ACT OF 1993

MAY 19, 1994

Serial No. 44

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PRISON INMATE TRAINING AND REHABILITATION ACT OF 1993

THURSDAY, MAY 19, 1994

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTELLECTUAL PROPERTY
AND JUDICIAL ADMINISTRATION,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2237, Rayburn House Office Building, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives William J. Hughes, Don Edwards, Howard L. Berman, Xavier Becerra, Carlos J. Moorhead, Howard Coble, F. James Sensenbrenner, Jr., and Bill McCollum.

Also present: Hayden Gregory, counsel; Jarilyn Dupont, assistant counsel; Phyllis Henderson, secretary; and Joseph Wolfe, minority counsel.

OPENING STATEMENT OF CHAIRMAN HUGHES

Mr. HUGHES. The Subcommittee on Intellectual Property and Judicial Administration will come to order. Good morning. Welcome to this morning's hearing.

The Chair has received a request to cover this hearing in whole or in part by television broadcast, radio broadcast and still photography, or by any of such methods of coverage. In accordance with committee rule 5(a), permission will be granted unless there is objection.

Hearing no objection, such coverage is permitted.

This morning, as you may know, we are considering legislation introduced by our colleague, Frank Wolf, from Virginia. The legislation is intended to provide additional work opportunities for inmates in the Federal prison system. The bill is also intended to help reduce the reliance of Federal Prison Industries on traditional industries.

We have now had four hearings in this Congress in which the continued increases in the prison population has been of prime concern to the subcommittee. An oversight hearing on Federal Prison Industries held by the subcommittee last session detailed the difficulty faced by the prison system in providing enough work opportunities for prisoners. This problem is not going to go away. If anything, it is going to become exacerbated in the years ahead.

Our present criminal justice policies require more time in prison and require more defendants to serve time for their offenses. Under

the circumstances, the prison population will only continue to grow and grow and grow.

Study after study has demonstrated that work and education while in prison reduces recidivism rates. These are crime reducing measures that have demonstrated their effectiveness. Prison industries is an essential and integral component of our prison system. It is critical to maintain a high level of participation by inmates, not only for training, but for the security of the institutions and the future security of the public.

For years, there has been conflict over the type and amount of products produced by Federal Prison Industries. While I acknowledge the concerns of private industry and labor, I cannot stress enough the need for all parties to find some common ground on this issue.

There is simply no way that the prison system can afford to keep prisons busy with "make work" that is neither self-sustaining nor capable of providing any skills training. The public will suffer more in the long run both from crime and the additional costs incurred by such a system.

The proposal contained in H.R. 703 is certainly worth examining and that is what we are doing today. There are serious questions raised about the provisions of H.R. 703 and the ability to fully implement even a few pilot projects. However, I believe that the testimony and discussion today will assist us in making that decision.

You know, I have said to labor and industry in the past, and it probably bears repeating, I know my colleague is deeply committed to prison industries as I am. It is not enough to be against everything that has been floated. It is time to try to develop some constructive suggestions on how to deal with a major problem in this country. And that is that it is becoming a revolving door.

People are coming into this system illiterate, and they are leaving that way. They are coming in without skills and leaving without skills. They are coming in with drug problems and leaving that way. It is no surprise they come back in in 6 months, because they just can't make it on the outside.

We are indebted to Frank Wolf. He has developed an initiative, but I know it is very controversial. I was attracted to it 4 years ago before I understood fully the implications and some of the problems in implementing it. But he has been a real leader in this area. Hank Brown on the Senate side, same thing. I salute you for your yeoman's work in an area that is extremely important to all of us.

[The bill, H.R. 703, follows:]

103D CONGRESS
1ST SESSION

H. R. 703

To provide for pilot programs conducted by the Federal Prison Industries to test the feasibility of meeting the need for increased employment of Federal prisoners by producing items, for the private market, in conjunction with private United States firms, that would otherwise be produced by foreign labor.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1993

Mr. WOLF (for himself, Mr. HYDE, Mr. CHAPMAN, Mr. TAYLOR of Mississippi, and Mr. PAYNE of Virginia) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To provide for pilot programs conducted by the Federal Prison Industries to test the feasibility of meeting the need for increased employment of Federal prisoners by producing items, for the private market, in conjunction with private United States firms, that would otherwise be produced by foreign labor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prison Inmate Training and Rehabilitation Act of 1993".

SEC. 2. PILOT PROJECTS.

(a) GENERALLY.—Federal Prison Industries shall conduct pilot programs to test the feasibility of providing increased employment for Federal prisoners by producing items for the private market, in conjunction with private United States firms, that would otherwise be produced by foreign labor.

(b) AGREEMENTS WITH PRIVATE INDUSTRY.—Federal Prison Industries may enter into agreements with private industry in order to carry out this section.

(c) EXEMPTIONS FROM REQUIREMENTS OF OTHER LAWS.—

(1) ITEMS PRODUCED MAY BE SOLD TO THE PUBLIC.—An item produced in a pilot program under this section is not subject to any restriction imposed by law on the sale of items because they are produced by prison labor.

(2) DECISIONS TO PRODUCE NEW PRODUCTS NOT SUBJECT TO INDUSTRY INVOLVEMENT PROCEDURES.—Paragraphs (4) through (5) of section 4122(b) of title 18, United States Code, do not apply with respect to decisions in a pilot program under this section.

(3) APPLICATION OF COMPETITIVE PROCEDURES.—Contracts may be awarded by Federal

Prison Industries under this section without using competitive procedures otherwise required by law.

(d) REPORT TO CONGRESS.—The board of directors of Federal Prison Industries shall include in its annual report to the Congress—

(1) its findings on the results of the pilot programs conducted under this section; and

(2) recommendations as to whether to expand this concept within the Federal prison system.

Mr. HUGHES. The gentleman from California.

Mr. MOORHEAD. Thank you, Mr. Chairman. I would like to commend you for scheduling this hearing. Our colleague and good friend, Frank Wolf, is to be commended for his strong interest in corrections generally and for his introduction of H.R. 703.

I know that Frank is a man that really cares about people, and of all people I know in Congress, I don't know of anyone that really tries to help people that are down and out and have problems any more than Frank does, because he cares about the interests of the people he represents and the people that may have trouble.

Frank, that is the way I feel about you.

I recall a few years ago when the Director of the Federal Bureau of Prisons was testifying before this subcommittee, and he pointed out that Federal inmates had an average of four felony convictions. This graphic statistic highlighted how serious the problem of recidivism is among Federal offenders. It is my firm belief now, just as it was then, that we need to do more to stem the rate of recidivism by somehow doing a better job of rehabilitating offenders, especially first- and second-time offenders.

You know in some other countries, I had a chance to visit a prison in Denmark, and they give the prisoner more of an opportunity perhaps to do things for themselves to do the work. Rather than getting food served to them, they are required to fix it and they all have regular work hours, each and every day, in which they go out and they learn skills, do things.

But there is almost no recidivism there. And we have to work more and more toward that goal and provide at least an atmosphere in prisons which is going to help them establish themselves once they get out rather than just become more knowledgeable about crime and how to get back into the game once they get out.

Clearly one of the keys to reversing the recidivism rate is to provide meaningful work for our inmates. And the Federal inmate population has mushroomed while Federal markets have shrunk. The chance to employ more inmates in FPI without unduly impacting the private sector is greater than ever before.

I know that to be successful in the long run, the FPI needs the cooperation of the business community and labor.

I am pleased to note we will receive testimony this morning from our former colleague and indeed a former distinguished Member of the House Judiciary Committee, Senator Hank Brown. Hank, welcome here this morning.

I note that our friend Warren Cikins is also with us this morning. Warren was the catalyst for the series of productive and always thought-provoking Brookings seminars on the administration of justice. And I look forward to his testimony as well as all of our other distinguished witnesses this morning.

We are on a subject that we really have to spend some time on, and we have to get some solutions for. With over 70,000 prisoners in the Federal system and over 90,000 in California alone, in the State prisons, the cost is around $30,000 upwards per year for each one of them, and the cost to our Nation by the loss of these large numbers of people out of the economy is tremendous.

We aren't doing a very good job, and we better start doing a better job very soon, or we are going to have a far more serious problem than we do now.

I thank each of you for coming this morning. I look forward to your testimony.

Mr. HUGHES. The Chair recognizes the distinguished gentleman from California who is also chairman of the very, very important subcommittee dealing with civil and constitutional rights, and who is a key member of this particular subcommittee. He has worked in this area for a long time.

The gentleman from California, Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman. Congratulations. Thank you for having this hearing. I am sure this will be the beginning of even more noble work by you. And it is a daunting challenge that Director Hawk has.

As my colleague Mr. Carlos Moorhead said, the Federal prison population is exploding, is over 80,000 now, as I recall, and will go up to 118 or 120,000 inmates by the turn of the century. And by the turn of the century, we will have more than 62 percent of this population drug connected, but it will be 72 percent. So we are filling the Federal penitentiaries with drug cases.

And as the very interesting report ordered by the Attorney General that was released the other day came out, probably somewhere between 15 and 20,000 of these prisoners shouldn't be there. They should have been directed into other forms of punishment, because of the mandatory minimum sentences enacted by the House of Representatives and the Senate.

A lot of these are first time offenders. By the time they get out, because the length of their sentences depends on the amount of drugs they might have been carrying, they are not going to be any good at all. Those 2, 4, 6, 8 years in a Federal overloaded prison system apparently destroys people.

So I am awfully delighted that our colleague from the Senate, Hank Brown, is there, as well as our colleague Frank Wolf. I appreciate you holding the hearing, Mr. Chairman.

Mr. HUGHES. Thank you.

The gentleman from North Carolina.

Mr. COBLE. Thank you, Mr. Chairman. I have no prepared statement. Let me just speak circuitously for a minute.

I like what the gentleman from California said. It is good to see a former member of our committee, Senator Brown. It is good to see Frank Wolf here.

As you all know, Mr. Chairman, I have always been concerned about this problem, because I represent the furniture, textile, and tobacco capitals of the world. A lot of my colleagues are pretty well determined to put tobacco out of business. They bash tobacco every day. Let's set that aside for a minute. That leaves textiles and furniture with me. And I have always been concerned. I am not opposed to FPI, I am all in favor of training inmates for rehabilitation for productive lives when they leave prison.

But I want to be doggone sure we don't erode the private market base. It is good to see our friend from the Brookings Institution, too. I didn't notice you while I was talking.

Mr. Chairman, as you know, this has always been the burr under my saddle, and it will continue to be until I am convinced that the private sector, particularly back in my district, are not going to be harmed by this. And I look forward to hearing the testimony today, Mr. Chairman.

I thank you.

Mr. HUGHES. I thank the gentleman. We always get some points from Mr. Coble that we didn't try to grow tobacco in the Federal system.

Mr. COBLE. I wouldn't be surprised.

Mr. MOORHEAD. This is a tough issue for those people who have industries that are impacted. But I think we are going to have to find in many different areas places where we can put people to work, and perhaps they don't all have to be in furniture, Howard.

Mr. HUGHES. The gentleman from Florida.

Mr. MCCOLLUM. Thank you, Mr. Chairman. I certainly share the concerns with displacing American nonprison workers. I think the most critical thing I have seen for a long time in terms of the prison industries in the Nation, with the population increase being what it is, is finding ways to get the meaningful productive employment for them and job training.

And it seems to me there are innovative suggestions in the proposals before us today that we are going to be hearing about. They may go at least in some measure in that direction. We need to find, frankly, in my judgment, a formula that would allow us to bring private industry into the prisons more often and to be able to sell prison-made goods across State lines in terms of the general open market rather than simply the confined areas today where those prison-made goods are allowed to be sold to other government agencies or within the State, within the particular territory, in the case of State prisons.

That does require very carefully drafted protective measures that would not allow for anyone to be undercutting the normal wage and marketplace outside the pricing of goods. So far that formula hasn't been created, although I have wished it and urged it a number of times. And yet this today is not going into that direction. But it is certainly making a step in the right direction, at least the initiatives are, in my judgment.

So I look forward to hearing from the witnesses and the proponents of these bills, Mr. Chairman.

Mr. HUGHES. I thank the gentleman. I want to ask our colleagues, Representative Frank Wolf and Senator Hank Brown, to come up and serve as a panel.

While they are coming up, I just want to—I did not thank Carlos Moorhead, and I should have, for his work in preserving the Federal Prison Industries. I don't have to tell the Director, she knows that this particular program has been in trouble for a number of years. Thankfully we had leaders, courageous people like Carlos Moorhead and others with us today that have helped lead the fight to preserve this most important component of our penal system at the Federal level.

Representative Frank Wolf is the original sponsor, as I mentioned, of H.R. 703, the subject of today's hearing. He represents the 10th District of Virginia and has done so since being elected

in 1980. He presently serves on the Committee on Appropriations. Representative Wolf has a distinguished public career, having worked as a legislative assistant to former Congressman Edward G. Biester, Jr., as an assistant to the Secretary of the Interior, C.B. Morton, from 1971 to 1974, and as Deputy Assistant Secretary for Congressional Legislative Affairs for the Department of Interior from 1974 to 1975.

He graduated with a B.A. degree from Pennsylvania State University in 1961 and received a law degree from Georgetown University Law School in 1965. It is a pleasure to have you with us today, Frank.

Our next witness is Hank Brown.

Mr. WOLF. I will just defer to Hank and let him testify first.

Mr. HUGHES. Our next witness is Senator Brown, the senior Senator from Colorado. He is a former Member of the House and a former colleague on the Judiciary Committee. He was elected to the Senate in 1990, and elected to the House in 1980.

Senator Brown received a B.S. degree in 1961, and a law degree in 1969 from the University of Colorado. He received a master of law in tax degree in 1986 from George Washington University. He served in the U.S. Navy from 1962 to 1966, including a tour of duty in Vietnam. He presently serves on the Committee on the Budget, the Committee on Foreign Relations, and the Committee on the Judiciary.

We welcome you back to the Judiciary Committee. We have both your statements, which, without objection, will be made a part of the record. We hope you can summarize for us, if you can do that. As I understand it, Frank has deferred to you. Welcome, Hank. It is good to have you back.

STATEMENT OF HON. HANK BROWN, A SENATOR IN CONGRESS FROM THE STATE OF COLORADO

Mr. BROWN. Thank you, Mr. Chairman. I want to thank Congressman Wolf for allowing me to go ahead. I would just add a couple of thoughts to the statement that you have in the record.

I remember reading a book written by Woodrow Wilson when I was about 13. It was a wonderfully idealistic book as many of his works were. Not only was he an inspirational leader, whether you agreed with him or disagreed with him, but he was also able to see the idealism and the potentials in life.

This particular book was called, "When a Man Comes to Himself." The theme of it was quite intriguing. His thesis is in a way that we are what we do. A man or woman is in fact what they do in life. That reveals a lot about all of us, I guess. Adele Davis perhaps would be surprised, because she always thought we are what we eat. But in a large measure, what we are and what we contribute and what we leave behind in this life is a reflection of what we choose to do with our time.

We can lift weights and watch TV and spend it in idleness, as 75 percent of the Federal prisoners now do. That is up from 50 percent. Literally we have gone from 50 percent of our Federal prisoners working to 25 percent. That is a reflection of an increasing population more than anything.

But I can't imagine anything more important to be included in the prison system than good, meaningful work. Not because it will reduce cost—I think it can, with a proper work program. Not because it will reduce recidivism, which I think it can do. But because to not allow someone to be productive and creative robs them of self-respect, and perhaps may be the cruelest punishment of all.

There are some things that we can do to expand prison industries that won't conflict with many of the constraints I know this committee is going to hear about. Congressman Wolf's bill addresses many of them. Our bill that we will carry in the Senate is somewhat like it. But there are some areas I think may well increase the number of prisoners who work without impacting labor and may be of interest to the committee.

One is recycling. It is not one that promises great, enormous profits, but it is one that will not displace current workers, that will improve the environment, and will accomplish a number of purposes. But the most important of all, it will be useful, productive work at the end of the day.

Two, the production of disaster relief goods, which can be a very significant help in those disasters.

Three, labor-intensive manufacturing that is not currently conducted in this country. And there are a number of industries where we have simply lost the industry because they are low wages, labor intensive and performed offshore. Those three areas are significant, dramatic, and can be conducted without displacing current workers now.

One thing we do know from the prison studies is that those who work are more likely to get a job after release. Those who work are more likely to get pay improvements. Those who work in prison are more likely to make a success of a halfway house. Those who work in prison are more likely to stay out of prison. Surely that should be our goal.

But, ultimately, I think this issue boils down to one thing: Human dignity and respect and the pride that comes from, once again, feeling you are pulling your own weight.

I think this committee can make enormous progress and I appreciate, Mr. Chairman, your interest in this measure and your willingness to move forward on it with hearings. I am confident that working together we can make this a priority this year. We can see legislation that will make a real difference, not only for the victims of crime, but in changing the lives of those that have caused crime in the past.

Thank you, Mr. Chairman.

Mr. HUGHES. Thank you.

[The prepared statement of Mr. Brown follows:]

PREPARED STATEMENT OF HON. HANK BROWN, A SENATOR IN CONGRESS FROM THE STATE OF COLORADO

Thank you Mr. Chairman and members of the Committee for the opportunity to testify. I want to commend Congressman Wolf for bringing this important issue to the fore. Putting able-bodied prisoners to work will serve several functions: it will reduce inmate idleness and violence, reduce recidivism and increase post-incarceration employment. Getting prisoners out of the T.V. room and into the work room is the best way to reform them from criminals into productive citizens.

The legislation Congressman Wolf has introduced is a good bill, one that will go a long way toward putting able-bodied prisoners to work. As I understand it, the bill would put prisoners to work by expanding work programs into new areas. One new area is recycling. Recycling is labor intensive and seldom undertaken by private firms. Instead, waste is deposited in our landfills. Allowing inmates to recycle things like mattresses, tires and engine blocks at low cost kills two birds with one stone: it puts prisoners to work and it addresses our waste problem. Another new area is labor intensive manufacturing that is not currently being done in the United States because the cost of labor does not justify the production of the goods. This bill would allow inmates to do that labor without displacing American jobs. There is a good chance that it would actually increase private jobs since it would be expanding American production up and down the

line.

As you know, there is an existing prison work program, known as Federal Prison Industries. This program has been very successful at putting inmates to work. UNICOR recently conducted a study which underscores and elucidates that fact. The authors of the study stated that, "inmates who participated in (prison) work and other vocational programming during their imprisonment showed better adjustment, were less likely to be revoked at the end of their first year back in the community, were more likely to be employed in the halfway house and community, and earned slightly more money in the community than inmates who had similar background characteristics, but who did not participate in work and vocational training programs."

Specifically, the study found that 89% of the inmates who worked in prison successfully completed their halfway house stay--in other words almost 9 out of 10 did not recidivate in that crucial first year or so after release. The study also found that inmates who worked in prison were less likely to have a misconduct report within the last year of incarceration than inmates who did not work.

The study found that 86.5% of inmates who worked in prison found full time work while at the halfway house. That makes them almost 25% more likely to find full time work than other inmates. And those who did not find full time work were 7.7% more likely

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to find temporary work than inmates who did not work in prison.

The halfway house staff rates inmates for a responsibility rating which is based on dependability, financial responsibility, and social interaction. Inmates who worked in prison received a higher responsibility rating than other inmates.

The study also found that for inmates who left their longest held job, those who worked in prison were most likely to leave their job for a higher paying one. Other inmates were more likely to leave their jobs for other reasons.

This study is hard evidence of the success of prison work programs like the ones Congressman Wolf proposes. This study makes it quite clear that the more prisoners we put to work, the more prisoners will become productive, law abiding citizens.

Prison work should not be confused with hard labor of the rock pile or some other criminal punishment program. On the contrary, inmates sign up to participate. There are more inmates who want to work than there are available jobs. These prisoners are paid a wage. These prisoners receive training which helps them find employment after release. The prison work programs help the prisoners. It is worthy of mention that the international community has recommended prison work as a desirable or even necessary element of reform. The League of Nations and later the United Nations approved of and encouraged prison work programs in

the Standard Rules for the Treatment of Prisoners.

Prison work programs cannot be portrayed as having a negative impact on labor or business either. Existing law prohibits the prison work program from impacting any field of business and requires prison work programs to diversify. Congressman Wolf's bill should be supported by labor and industry on this basis: expanding into new areas further diversifies the industry focus of prison work programs.

Mr. Chairman, the federal prison inmate population doubled from 1981-1989 and it has doubled again since then to almost 80,000 inmates today. The prison system is overcrowded way beyond its capacity. The management of the prisons is difficult at best and the overcrowding quickly becomes inmate violence. Inmates who are idle, who have nothing to do but watch violent T.V., are the ones who start the disturbances. We need to give the prison administrators the capacity to put these prisoners to work so the administrators can combat the inmate idleness that leads to violence. Currently, the prison work program is the main program to reduce inmate idleness.

It should be noted that many of the reform proposals that float around Congress cost millions of dollars. The prison work programs, like the ones Congressman Wolf proposes, reform prisoners at no cost to the government. Prison work programs pay for themselves. In addition, prison-made goods supply the

government with low-cost goods.

It is clear that prison work programs are necessary to the success of our penal system. We simply cannot crowd our prisons beyond capacity, let the inmates sit around all day and watch violence on the television and wonder why so many inmates cause violence in prison and come out of prison with the same or worse criminal behavior. If we want to reduce recidivism, if we want to reform criminals into productive citizens, if we want to reduce inmate idleness and violence, we need to support prison work programs like the ones Congressman Wolf proposes.

I have drafted a proposal similar to Congressman Wolf's which aims to put all able-bodied prisoners to work. As you move this bill through the process, be assured that I will be trying to do the same thing in the other chamber.

Mr. HUGHES. Frank, welcome.

STATEMENT OF HON. FRANK WOLF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. WOLF. Thank you, Mr. Chairman. Let me thank you personally for the record for holding the hearings. If I didn't represent my area, I think I would like to live exactly where you live, in Ocean City.

Mr. HUGHES. I always worry about you coming in and looking at my district.

Mr. WOLF. I vacation there every summer having worked for a Republican Congressman from Pennsylvania, I used to live in Pennsylvania, but I do want to thank you very much.

I have developed the feelings I have had on this issue for the time that I worked for former Congressman Pete Biester, who was on this committee, and Tom Mooney, who I saw earlier today, who was a staffer when I was a staffer for Mr. Biester. I was also a probation officer for a short period of time in the city of Philadelphia and spent some time in a prison program at Lorton Reformatory called One to One, where we would go down and counsel prisoners. I saw the frustration of prisoners who had absolutely no work and nothing to do.

To Mr. Coble I would say, Howard, we are not targeting this with regard to furniture and textiles. Quite to the contrary, it takes the pressure off of those items. We are only talking about having industries whereby there are no businesses in the United States.

Several years ago, I talked to Zenith. Zenith had expressed some interest in coming into a Federal prison and making television sets. There are no television sets made in the United States. This is a way to bring the industry back into the United States, have the men work on this, and we would only be making goods that are no longer sold, or made, rather, in the United States. So there is no competition with regard to that.

As Hank Brown said, with regard to dignity, Chuck Colson, the executive director of Prison Fellowship Ministries, wrote me with regard to this legislation. He has probably forgotten more about prisons than most Members of Congress know, and he said this in his letter. He said, "The principal task in rehabilitating offenders is to provide an alternative to the subculture which brings antisocial behavior. That subculture lacks work ethic and the values associated with a work ethic—the connection between effort and reward, the value of postponing gratification and other evidence of a 'long term' perspective. Reinforcing the work ethic is central to that effort of providing an alternative culture."

I have gone down to Lorton a number of times since then and have spoken to the prisoners and talked with them. They said they had no dignity. They get up every day, they mill around, there is no work. And how can you put a man in a prison like Lorton Reformatory for 10 years with no work and no training, and then on his day of departure, send him off up Route 95. He goes back to 14th Street, and all of a sudden he gets back into crime.

If you are the first person he meets, you may very well be the victim of that crime. You have given him no work. You have given

him no skills. You have given him no dignity. At Lorton, to use that as an example, very, very few people work.

So I think the committee understands that; I believe that this helps prison management, it makes inmates productive. It is better than watching TV. It is better than lifting weights. It is better than all of these things because it gives them dignity.

Some people will say, gee, China, MFN. I will tell the Members of the committee, I was one of two Members of Congress that have been in a Chinese gulag. We were in Beijing prison. We saw men making socks for export. These are political prisoners, 40 of them were in Tiananmen Square, demonstrators, because the demonstrators in 1989 were arrested by the Chinese. If you looked at the news last night, Harry Wu came back with dynamite tapes showing the gulags in China. We can't compare this to China. In China, work is mandatory and it is very, very brutal.

Here, this bill calls for it to be purely voluntary. If the men want to work, fine. If they don't want to work, fine, but we provide the jobs.

It is not adequate or fair to compare the gulags, the Schindler's list in China, if you will, to the Federal prison system. Most of the men in our prisons are there because of crimes they have committed. In China, they are there with regard to the fact that many of them have been arrested for demonstrating for different things like human rights and religious freedom.

Who is in support of this bill? We have the State directors of corrections from Arizona, from Delaware, from Georgia, from Illinois, from Maine, from Maryland, from Massachusetts, from North Carolina, from Ohio, from Oklahoma, from Oregon, from Pennsylvania, and we sort of stopped asking people because once we got this, we knew that we had the basic support of the core group.

We have the American Association for Correctional Psychology, the American Bar Association, the American Counseling Association, Citizens United for Rehabilitation, and Justice Fellowship, which is the group Chuck Colson represents.

What do other countries do? In Canada, goods can be sold in the private sector with the approval of Canada's Treasury Board. France, they do it. Germany does it. Italy does it. Japan does it. The U.K. does it. And as Mr. Moorhead said, the Scandinavian countries do it.

I think this is a good opportunity, and another one is recycling. There is no domestic recycling industry for mattresses and things like this. Here is an opportunity to create this industry in the prisons, and when you pay the men, a third of the money could go for restitution for the crimes that they committed, a third could go for their upkeep, and a third could go to support their families. Thus they could put some money aside for the day they get out of prison.

Hopefully, as they leave Lorton Reformatory, they leave with a skill, they leave with a little money in the bank, and they leave with some understanding of what it meant to get up in the morning and come to the lathe, come to work.

I know, Mr. Coble, the arguments used to be textiles, and I have one of the largest and finest furniture manufacturing businesses in the Nation in my congressional district, Hinkel Harris. Would I be putting in a bill that would be detrimental to Hinkel Harris? Abso-

lutely not. Would I be putting in a bill that would go against the textile business in my district? Absolutely not.

This is a plus for you because it takes the pressure off of textiles or furniture. If we can get all these factories behind fences, as Mr. McCollum said, we could get behind the private sector, we could get Zenith to come into the Federal prison to make color television sets, which was pioneered in this country, but you can no longer buy an American television set. The men could leave the prison with dignity, not the way they do now. When they come up Shirley Highway with no money in the bank, their muscles are bulging because they have been lifting weights for 12 years.

Many or most of the crimes that are committed in the District of Columbia are committed by people who basically have an M.B.A. from Lorton Reformatory. They are graduates and they have learned the crime and the dehumanizing situation in the prison, and they take it up here and take advantage of innocent citizens.

Mr. Chairman, I thank you for the hearing. It is a big step. I would hope and pray that we could pass this bill before this Congress ends, and I would be happy to answer any questions the committee might have.

[The prepared statement of Mr. Wolf follows:]

PREPARED STATEMENT OF HON. FRANK R. WOLF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. Chairman, I appreciate the opportunity to come before this subcommittee to testify in support of legislation I introduced in January 1993 -- H.R. 703, the "Prison Inmate Training and Rehabilitation Act of 1993." When I introduced H.R. 703 in the early days of this 103rd Congress, I said that prison reform was one of the important issues this Congress should address. I commend you for holding this hearing on one aspect of the effort to reform the prison system by providing increased work opportunities for prisoners.

Mr. Chairman, when I introduced this legislation over a year ago I characterized the problems facing our nation's prisons as a CRISIS. The situation has not improved over the last year, in fact, the problems of overcrowding, strained prison budgets and resources, and inmate unrest have become exacerbated. This subcommittee knows all too well what problems face the nation's prisons. Both crime bills passed by the House and Senate will put more people in jails, but won't rehabilitate anyone because there is no work provided in either bill. While the Congress may have answered the American public's appeal for tougher and longer sentencing, we have failed to address two inevitable questions. First, what do we do with the prisoners once they are in jail, and second, how do we prepare the vast majority of these inmates for their eventual release? The answers to both questions is to provide inmates with a job.

These questions are of paramount importance because society is not well served if criminals are paroled from our prisons with master's degrees in crime. An effort should be made to rehabilitate inmates and make them ready and eager to reenter mainstream society equipped with work skills that make them valuable contributors to their communities. Unfortunately, many prisons become finishing schools for criminals, where prisoners become experts in their craft, ready to continue their predatory behavior as seasoned criminal veterans. Taxpaying constituents deserve a prison system that produces individuals prepared to take their place in society as law abiding citizens and does not serve as a revolving door for repeat offenders.

One way to rehabilitate inmates is to give them work while they are incarcerated. One recent study by the Bureau of Prisons found that those

employed by FPI showed better institutional adjustment, were less likely to have misconduct reports within the last year of confinement, were less likely to be repeat offenders by the end of their first year back in the community, were more likely to be employed, worked a greater proportion of each workweek, and earned more money than inmates with similar background characteristics, but who did not participate in work and vocational training. Work instills responsibility and dignity, and, as this data clearly demonstrates, work programs should be encouraged as a means to successfully rehabilitate convicted criminals.

Unfortunately, only approximately a quarter of the over 85,000 federal prisoners are employed by FPI. With the prison population expected to top 100,000 in 1995 and 120,000 by the year 2000, a greater percentage of inmates will not be able to take advantage of the positive benefits gained from this valuable work experience. Additionally, federal prisons are already running at over 140 percent capacity and the explosion in inmate population will only make a volatile situation worse. Idleness is the devil's workshop, and idle prisoners devise ways to fill the void of unoccupied hours--often resulting in disruptive and violent behavior. Prison employment is instrumental in combating the detrimental impact of overcrowding by occupying prisoners' otherwise idle time, thereby aiding correction officers with the delicate task of prison management.

While there are various prison management benefits to providing work for prison inmates, to which the representatives from the Bureau of Prisons can testify, I am interested in focusing on the dignity which accompanies employment. Giving inmates work--often their first legitimate work experience--imparts higher self-esteem and morale, furnishes a sense of accomplishment and purpose, instills a positive work ethic, provides inmates marketable skills which enhance the opportunity to acquire employment upon release, and, teaches them to respect themselves and others. Chuck Colson, executive director of Prison Fellowship Ministries, wrote me in support of this legislation. Chuck Colson has forgotten more about prison reform than most members of Congress will ever know and he supports providing work to inmates to instill a work ethic. In his letter he commented,

> "The principal task in rehabilitating offenders is to provide an alternative to the subculture which breeds anti-social behavior. That subculture lacks a work ethic and the values associated with a work ethic--the connection between effort and reward, the value of postponing gratification and other evidence of a 'long term' perspective. Reinforcing the work ethic is central to that effort of providing an alternative culture."

Also, prison employment is a humane way to mitigate the crippling effects of idleness. Ask yourself, would you prefer to see inmates work or do nothing? Would it be better that they work or watch soap operas all afternoon? Is it more advantageous for them to be lifting weights or building a widget? Our preference should always be work. None of those other alternatives will help

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prepare an inmate for his eventual release.

H.R. 703 provides an opportunity to forge a unique partnership between FPI and private industry to rehabilitate inmates by employing them in the manufacture of products that are not currently fabricated in the United States. This concept will halt the decrease of inmate participation in work programs and will actually expand the number of inmates engaged in productive work.

Prisoners could provide a number of goods and services that are solely provided by offshore sources. Domestic labor would not be threatened by this program because the goods produced would not have otherwise been produced domestically. Moreover, domestic labor will benefit from the collateral jobs created by the repatriation of offshore work. FPI will undoubtedly need supplies, transportation, marketing and training assistance, and other services which otherwise would have been provided by foreign suppliers and now will be provided by U.S. firms. As FPI moves into the production of goods currently made outside the U.S., the potential for domestic job creation is great. Business, labor, inmates, and the American taxpayer will all benefit from this symbiotic relationship. It is even possible that this program might result in the return of industries, such as electronics assembly, that have moved outside the U.S., thereby creating additional jobs here in the United States. If we are successful, through these pilot programs, in repatriating lost industries, we will create job opportunities for more Americans by expanding the economy, and begin to rebuild our industrial manufacturing base. Creating jobs and reducing crime benefit all Americans, and this legislation provides an opportunity to achieve these ends.

Mr. Chairman, you will hear some testify today in opposition to this concept. I would like to address some of their concerns. One argument made by the unions is that this is like China's prison camps. As a member who has been at the forefront of the China-MFN issue, I must disagree. FPI's programs are completely voluntary whereas China's are not. If an inmate wishes to attempt to improve his lot in life by participating in an industry work program, this bill will give him the opportunity. In China there is no voluntary choice. It is also argued that this is a capitalistic exploitation of inmates. Nothing could be farther from the truth. Inmates and society will be the big winners because of lower recidivism rates. The key here is rehabilitation of inmates. Furthermore, we don't incarcerate political dissenters in this country and make them work to support a system which they don't support, as is done in China.

Also, the argument is made that these jobs won't provide inmates with transferable work skills and are therefore unnecessary. I can tell this subcommittee with the utmost confidence that remaining jobless, watching television all day, or weightlifting provides even less skills marketable skills.

Even if the skills learned in prison are not the same as those that an inmate may need on the outside, the fact that they are working makes all the

difference. Inmates learn to show up to work on time, socialize with their coworkers, cooperate, resolve problems, and obtain the dignity derived from putting in a legitimate day's work. These are the important skills that one can learn from a prison job in addition to other practical skills like working with machine tools, soldering, and driving a forklift or truck.

Even though this is not in the bill, I would encourage this subcommittee to consider allowing FPI and the states to engage in a recycling pilot project. Mattresses, automobile tires, plastic and aluminum bottles and cans could all be broken down, sorted and recycled by inmates. There is a vast amount of this work available which is not done by the private sector. It has tremendous potential and should be pursued.

Mr. Chairman, this pilot program enabling Federal Prison Industries to work with American companies to produce goods not otherwise produced in the United States offers a win-win proposition for all parties. American labor and business, particularly small business, will benefit from the increased demand for raw materials, transportation, and other related needs FPI will encounter as a result of increased production. Inmates will benefit from learning transferable work skills which will help them make the transition from prison life to normal life. The American people can be content in knowing that inmates are learning jobs skills instead of honing their crime skills. And finally, the American taxpayer will continue to benefit from a program with proven rehabilitative benefits that does not cost a single taxpayer penny.

The essential need to increase inmate participation in work programs to serve both the rehabilitative and prison management function is not an academic discussion. If FPI does not move into new areas of production, it will not be able to meet the enormous demand for prison jobs. The lack of work will mean higher recidivism rates and greater violence in our Nation's prisons. Also, if we don't come up with creative supplements to the present system, FPI will keep expanding into the traditional areas such as furniture and textiles about which members of Congress hear complaints from their constituents regularly.

By establishing pilot projects, we will be able to determine the feasibility of expanding FPI in a way that positively effects U.S. business and labor, and at the same time provide inmates with a source of pride and purpose. I encourage this subcommittee to seriously consider this legislation and report it out favorably.

Mr. HUGHES. Thank you, Frank, for a very, very good statement overall. And as I indicated at the outset, you have helped us focus in once again on a very, very important problem in our penal system.

At the Federal level, I might say, I know you suggested—it was Senator Brown who suggested that only a small portion work. In the Federal system, most inmates work. So that is not quite accurate. Not all of them work in UNICOR, the Federal prison industry system, as you know.

And I happen to sympathize with Howard Coble. I think Howard has a legitimate view. I have felt that for a long time. No one industry should bear a disproportionate burden. That is why, thanks to Warren Cikins, in particular, and others, who have led the fight to try and find other solutions. In the past, what we have had is opposition, both from labor and the private sector, for several reasons.

Labor—and I am interested in hearing from you—labor believes that we should not write off any one sector of the economy; why give up, for instance, on televisions or anything else. Why not basically strengthen the private sector, and once again make us competitive so we can recapture a part of the market we have lost, like we have accomplished in some areas of telecommunications, where we now are leaders.

That is the one argument. The second argument, and you can, if you would, address both, is that we argue about China, and slave labor all the time. The suggestion has been made, not without some foundation, that perhaps it would be viewed as somewhat hypocritical because not all the prisoners in China are political prisoners, a lot of prisoners are there for other reasons, thievery and a whole host of other reasons.

And what is the difference between prison labor in this country and prison labor in the other country?

Now, I happen to think that you are talking about apples and bananas in some respects, because nobody is forced, except through an incentive system at the Federal level, to encourage people to work. But it is, I think, accurate to say that in China, it is truly slave labor.

But I would like to hear from you. What is your argument on this?

Mr. WOLF. On the second one first, I think the chairman has had the main point. It is voluntary versus mandatory. The day that we were in Beijing prison, number one, it was very, very cold. It was snowing out. It was very grim. It was hard to imagine spending a couple of years there.

Second, their gulags are very, very brutal. If you watched the news last night when Harry Wu, who just came back, there were reports whereby when they kill the prisoners, there are doctors available to take the cornea out and the kidney out and sell it. It is a very brutal place. What we are talking about in this situation is a voluntary effort whereby if the men want to work, they can.

Almost all the prisoners, I can't say that everyone who said it is telling the truth, said I would like to have the opportunity to work. At Lorton, there is very little work. They are milling around, there are some working in the culinary shop.

Mr. HUGHES. That is not a Federal prison.

Mr. WOLF. No, it is not. But it is an example of what is going on in the States. And with the crime bill that just passed, we are going to be increasing the number of inmates dramatically. In fact, it is going to be so dramatic, and we can't even deal with the amount that we have now.

So I think the difference is very, very major. On the first point, it is very, very valid, because I have furniture manufacturing in my area and also textiles. I asked the General Service Administration for a list of all goods that we in the United States purchased, that the U.S. Government purchases that we have to have that are no longer made in the United States. It is a very extensive list.

And so we would only have these prisoners working on goods that are no longer made in the United States. Now, if I thought there were an opportunity for television to come back in, fine. But Zenith just bailed out and moved to Mexico. And I think the best way to reintroduce the manufacture of televisions in the United States is if we can get a U.S. television manufacturing plant in a Federal prison somewhere, we may be able to introduce it back, and the workers could learn skills and we could demonstrate that we could do it.

I appreciate, I want the record to show, AFL–CIO, Mr. Kirkland, on the slave labor in China. The men who brought the supplies to the prisons would be union workers. The men who would get the fabricated goods would be union workers. The men who made the plastic—so I think you would be creating more jobs for American workers by reintroducing this.

And again, I just stress, again, to Mr. Coble, we are only talking about industries that are no longer in the United States.

Mr. HUGHES. I understand. Let me just make one additional point, then I will recognize other Members. It is not enough to provide just work. That is important. You also have to provide work that results in skills that are marketable.

Mr. WOLF. That is right.

Mr. HUGHES. So it is a little more complicated than just providing work. We provide work in the Federal system. I think the Federal system basically has led the way. It is a model for trying to provide incentives and disincentives so that we move inmates in the direction of work, but provide skills that they can utilize when they leave the system, so they can make it in the real world.

Recycling sounds attractive, but you have to ask the question, what skills are we providing that they can market when they leave? Because there is nothing worse than leaving the system with a work ethic but being unable to find a job. That is part of the problem.

The gentleman from California.

Mr. MOORHEAD. Thank you, Mr. Chairman.

One thing I don't believe has been pointed out, and that is that you provide for a pilot project to see how it would work, to see whether it would work.

Mr. WOLF. Right.

Mr. MOORHEAD. So we are not making a major change in the entire system. We are going through an experiment. And we are not

taking the risks we would if we were to apply it to the entire system at once.

Mr. WOLF. That is correct. Right.

Mr. MOORHEAD. It is my understanding that when you filed an amendment to the crime bill, you included an amendment to this project which would provide for the area of recycling.

Mr. WOLF. Yes, sir. Right. Yes, Mr. Moorhead.

Mr. MOORHEAD. I wonder if you could elaborate on that proposed change in the bill.

Mr. WOLF. Well, we have found out through the Bureau of Prisons and others there really is no domestic recycling business. And one of the more difficult things, for instance, mattresses and things like this, to have prisoners work on the recycling of mattresses, perhaps developing an industry in this country whereby they then could come out, perhaps a group of prisoners who could learn that and then go out and develop an industry outside. But that would be an area that I think would be worthwhile.

It is environmentally appropriate. It does teach the skills insofar as showing up for work in the morning, having the dignity, making some money, putting it aside so when they get out of prison—because as this committee knows, one of the more difficult things when you get out, you have no savings, so you are just reintroduced back into the society, back into the old neighborhood.

But I think that would be very valuable with regard to the environment, with regard to creating a new industry, with regard to developing skills. And it is one that there is a tremendous need in the country for.

Mr. MOORHEAD. Under our halfway house program, prisoners are allowed to work during that period, but they have to be incarcerated at night after they finish. That pretty much is a volunteer program as far as working, too, I presume.

I wonder why there are so many arguments against the proposal you have, when there doesn't seem to be a lot of—when you get to the halfway program, which allows people to work, if you could have a business that could train the prisoners while they were still in prison, even if they were going back to the prison at night, I can't see that the arguments would be any more valid with your program than they are with the halfway house program.

Mr. WOLF. I agree with the gentleman. I don't know that there is as much opposition as people focus and see what we are trying to do. We are really not trying to compete with textiles—that has been the initial opposition—and furniture. But once we are able to talk to people and explain we are not in competition, quite frankly, we are taking the pressure off, and we are only talking about industries no longer in the United States, the opposition diminishes. But the gentleman is absolutely right.

Can you imagine if we could get Zenith to come in and make television? Those skills are transferable. We could begin to sell them to the U.S. Government, sell them to State governments, sell them to local government. But as we explain to people, the opposition does drop off.

Mr. MOORHEAD. There are a number of industries that have basically left our shores. I think when you pointed out the television manufacturing area, that is one of them, where the cheap labor is

really necessary in order to make a product that will sell on the market.

I think if we could find some other industries than that where people could have a job and work during the daytime, help support their families, help to pay for the costs of their own incarceration, it would not only be better off for them, it would be better off for everybody else.

We wouldn't, as a taxpayer, have to shell out as much money for our prison inmates as we are now. And there would certainly be a lot more incentive for the prisoners to train themselves for a life after they got out.

I think you have got a good program. I congratulate you.

Mr. WOLF. Thank you, Carlos.

Mr. HUGHES. The gentleman from California, Mr. Edwards.

Mr. EDWARDS. I have no questions, but I want to compliment our colleague. I am very intrigued with your ideas. I think we ought to move ahead with a lot of them.

Mr. WOLF. Thank you, Don.

Mr. HUGHES. The gentleman from North Carolina.

Mr. COBLE. Thank you, Mr. Chairman.

You mentioned the possibility of trying to raise tobacco at some of our facilities. I want to say to Kathleen Hawk, the next time I drive by that facility in Butler, NC, if I see tobacco bars under construction, I am going to be real uneasy, as my granddaddy used to say.

Frank, you have done a good job. I think you understood me and I think the chairman made it clear. I am not by any means bashing what you are trying to do. I am not bashing prison employment at all. I just want to be—I want to make us all aware that this is a very fragile, delicate line that we are treading. I want to be sure we are not intruding into the private sector. I think you share that concern.

Mr. WOLF. Yes, I do.

Mr. COBLE. Let me put a couple of questions to you. Your testimony was very moving. I think it is apparent to me you are indeed concerned about making these inmates better prepared to respond to life and to become productive when they return to society, and hopefully we all share that concern.

Mr. Neal Miller, who will appear subsequently, indicates in his statement, "The legislation does not specify the decisional criteria to be used in determining whether there is domestic competition."

I guess my question to you is, Frank, respond to that, if you will.

Mr. WOLF. I don't necessarily have an argument if the committee wanted to do that. Believe me, many of you in this committee have forgotten more about this issue—I understand, I know Mr. Edwards was with Mr. Biester years ago, and there were major hearings in this committee and the committee on crime. So I am not holding myself up that this bill is the final bill. I think if you want to put criteria and standards in, that would be fine.

I am just not wedded—I just want to give this an opportunity. So if you want to make those changes, that would be absolutely fine.

Mr. COBLE. It appears clear to me, Mr. Chairman, that Congressman Wolf is indeed flexible. I think you will want to get to a situa-

tion where we can have a better plan on line. That might be something we may want to consider, Mr. Chairman.

Let me again quote from Mr. Neal Miller. And I will put this to you, Frank, as well. Mr. Miller, in his statement, advocates that there are two things or two fields that the programs can do and which the prison authorities for the Bureau should be encouraged or even mandated to do. First, prison industries graduates should be assessed for their skills level and personal amenability to the work environment, one. Two, industries should arrange for a job development specialist to assist released inmates in obtaining employment.

Now, I suspect, Frank, you would concur with each of those, but I would like you to respond to that.

Mr. WOLF. That would not give me any problem. Intellectually, it sounds good. I just understand they had the men get out of these places, though, they just get out and they are given a suit of clothing and are given some money and they just go out. And when the unemployment is very high, as when we went through a difficult time, particularly had they returned to the inner city, it is hard to reemploy them, particularly if they have had no job skills.

If they were able to come out and say, yes, I worked in a Zenith plant, we did thus and thus, that would be good. The program I was in, One to One, we would counsel the prisoners, and as they got out, we would help them try to find jobs. The success rate wasn't actually good because most of them hadn't done anything when they were in prison.

Intellectually, that would be a great job. We are filling them up big time now, and if we could do that, that would be wonderful. I am just somewhat skeptical that you can actually do that.

Mr. COBLE. Thank you, Frank.

No further questions, Mr. Chairman.

Mr. HUGHES. The gentleman from California, Mr. Becerra.

Mr. BECERRA. Thank you, Mr. Chairman.

Mr. Wolf, let me say it is a proposal that deserves some consideration, because obviously we want to do whatever we can for prisoners when they get discharged to help them be prepared to go out in the public. I agree, at this stage, we are not doing enough for people coming out of prisons.

I was hoping you could answer a few questions for me. I think I come more from the perspective of having a father who was a laborer for many, many years, someone who might be displaced as a result of the particular activity you are proposing. I am also one who supports training for prisoners, not necessarily training in fields that right now are not domestic, but just training overall.

In the bill, on page 2 in that first paragraph, you indicate that the industry shall conduct a pilot program by producing items for the private market that would otherwise be produced by foreign labor.

Does that mean specifically or explicitly that no domestic production or labor must be evident in the U.S. market?

Mr. WOLF. Yes. What it means—I don't know if you were here when I said earlier, I had asked the GSA to give me a list of goods that we in the U.S. Government—I use that as a pilot project—absolutely needed to run the Government.

Give me a list of those goods no longer made in the United States that have to be purchased offshore simply because, like television sets, every Member's office has a television set, different things like that, that there are no industry, there is no one in this country who is working, they would be the only things that we would be dealing with. And that we would be hopefully reintroducing this back in.

And it is almost—at one time, we called this Operation Condor. If you recall, when I was at the Department of Interior, Roger Morton and others developed a program with regard to the condor. The condor was almost extinct. They reintroduced the condor, they did a whole series of things whereby the condor is now surviving in California.

They have opportunities to bring these industries back by developing them in prisons and then mushroom them out to the private sector, but only goods where no one is working.

Mr. BECERRA. Thank you so much for clarifying that. You are right, I was not here when you mentioned that.

If we are training these prisoners in, say, the assembly or manufacture in some way of television sets, and if there is no domestic industry, when they are discharged from prison, where will they find a job for the training that they have now received in prison? How will we find the wherewithal for these folks to start up an industry given that no longer will they have the advantages of no minimum wage law, no particular requirements on taxation of the business and so forth?

Mr. WOLF. Well, now there isn't anything. If a man were working on microchips or working on soldering and doing things like that, that is very transferable. I have talked to businesses in my district. Whether you solder with regard to a computerized microchip or computers, it is just interchangeable. They would be learning that skill. They also would be learning to get up in the morning and come to work on time and do that. They also would be earning money they could set aside for when they got out.

But in a lot of these places, they are just nothing, nothing at all.

Mr. BECERRA. I agree with you on what you are trying to do. It is just the fact that you are trying to train them. I suspect you will find you are not going to be able to start up the television industry again, even through the labor that might be provided by the prison inmates. But what you will do, as you just said, you will probably help them develop skills they can use later on.

Of course, the concern for folks in labor is, will you teach them a skill that will displace someone who was never convicted of a crime? That is a question I think we have to delve into a little bit more, because it is two competing interests, trying to preserve a job for someone who is law abiding, and at the same time ensuring that a person who committed a crime can learn a skill so he doesn't have to go back into prison after committing another ill crime.

That is something I have to grapple with a bit more. That is why I think to some degree your measure really deserves serious consideration, because ultimately we have to do something with folks that are committing crimes and going to prison.

Mr. WOLF. If I could just add, he did speak to, several years ago, Zenith, at that time. Since the bill didn't pass, I didn't go back.

Second, these men get out a second time and commit crimes and rob banks. Once they pay their price to society, I think we have an obligation to mainstream them into society.

Mr. BECERRA. Absolutely. I agree with you on that. Especially since you are actually trying to go into an area where right now we have no domestic product. It does help, to whatever degree possible, to spur activity within our borders, whether or not when these folks are discharged from prison, there will be further activity outside the prison walls, I think is in question, but at least we give them a chance.

If I could ask one last question, Mr. Chairman. GATT, NAFTA, any of the trade agreements that we see either having been signed or in the hopper, any idea what the effect of this might be?

Mr. WOLF. I think—let me answer both. I think we as a country have to be concerned with what is going on in the country. If you talk and read and listen, crime is the number one issue. People fear for their lives. So we really have to deal with that issue.

Second, major countries do this, Canada. In Canada, goods can be sold to the private sector with the approval of Canada's Treasury Board. In France, goods are sold directly to the government, quote, the work of prisoners is no longer considered punishment, rather a way of educating a prisoner and preparing him for reentry to society, that is from France.

Germany permits the employment of prisoners for items for sale on the private market. Italy, Italian law contains no provision that would exclude the use of prisoners in the manufacture of products. In the U.K., the prisoners are provided for prison service and other public sector markets, which accounts for 80 percent of the sales.

So our initial private projects would probably be more to make—I don't want to beat the Zenith thing to death because it may not happen, and I don't want to put Zenith in a difficult role, but let's say they came in to sell those television sets to Federal Government and local government. But this is done in Canada, France, Italy, Japan, U.K., and as Mr. Carlos said, in the Scandinavian countries.

Mr. BECERRA. I think the chairman said, we have to get all the parties involved in this together so that they come to some solution that we can all live with.

But I was somewhat dismayed over the discussions we had on the crime bill when there was talk about trying to make sure we help either train some prisoners or get them ready through some further education to get back out into the work force, we also had some measures that would actually take away opportunities for prisoners to become more skilled or more educated.

This I think is probably the better direction in trying to get prisoners skilled, and who knows, maybe Zenith will come back into the domestic market producing television sets. Maybe you could spur the development of a new—or bring back another industry that we have lost.

So I think it is worth considering, but obviously, we have to make sure that all the parties, including those who are working right now in the work force, have a chance to participate in the final discussion.

Thank you.

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Mr. HUGHES. It will be interesting to see whether an amendment on the floor that would take away all training for inmates would be passed.

The gentleman from Florida.

Mr. MCCOLLUM. Thank you, Mr. Chairman.

I want to commend Mr. Wolf. Frank, you have been involved with this from day one. I remember discussing prison industry matters with you years ago now, and I am really pleased with your bill. You probably don't have a stronger supporter for what you want to do up here on the committee than Bill McCollum.

I do have a couple of questions. One of them is—I assume your language may involve private industry. I assume the Federal Prison Industries could produce a product that did not involve private industry.

Mr. WOLF. Yes.

Mr. MCCOLLUM. Second, I gather the pilot programs you have in mind would be within the confines of the Federal prison industry. The State industries would not be participants, or is this including State prison industries?

Mr. WOLF. Bill, that is right—it is Federal, but if you go ahead, you may want to make it applicable to the States because a number of States that have supported the bill have complained that they are not eligible for it and they would like to be. So I think you could have a certain number at the Federal as well as the States. I think they should have that opportunity.

Mr. MCCOLLUM. Would you have the Federal Prison Industries be the provider of the grants or oversee the State programs in some way? Have you thought through the construct on that?

Mr. WOLF. I haven't. I think that would be a good idea. I have respect for the Bureau of Prisons, they are professional, nonpartisan. I think that would be appropriate.

Mr. MCCOLLUM. One of the witnesses raises the issue of wages and questions, as I see it, whether or not if you pay the basic Federal prison industry wage that is there today to the prisoner, if that wouldn't be higher than most of the overseas wages that are being paid for the production of the products that are envisioned to be produced here in these prisons, in other words, would you really get private industry to come in if the wage rate were delineated or the cost were too high? Is this something that has been discussed way back when with Zenith or somebody else?

Mr. WOLF. Bill, I think you would get them, because we are in competition with what is being made in Great Britain, and in Holland and Germany and places like that. Their wage rates in many respects are even a little bit higher than ours. So we are just not competing with somebody in southern China or someplace like that. It is a global economy. So I think the wage rate would be very, very competitive.

Mr. MCCOLLUM. You have been silent in the bill about compensation to the prisoner.

Mr. WOLF. Purposely.

Mr. MCCOLLUM. I don't really have any other questions. I think your proposal is a sound one in the sense that it is especially good for asking us to help experiment with this, to find, as we said earlier, a pilot project to find out if this really works.

Good gosh, there can be no real harm in doing that. An awful lot of the mystique around somehow having prison-made goods out there could go away. It is just horrible, in my opinion, the negative reaction that immediately is conjured up because somebody talks about a prisoner working and the fear of displacing an American worker, and the thought processes aren't always reasoned out.

Some of the committee members have gone through that here today and I think each one who has reasoned it comes to the same conclusion: Yes, there could be some bad provisions that I am sure in the past there have been, but there are many ways of crafting it, ways like you are doing here, where it has no harm to American workers at all and you do great benefit to society as a whole by providing some opportunity for prison inmates to gain skills and produce products and so forth.

So I commend you and thank you for coming here.

Mr. WOLF. Thank you.

Mr. MCCOLLUM. I yield back.

Mr. HUGHES. In the crime bill, as the gentleman knows, there is a provision that would encourage the States to develop comprehensive plans that would move them in the direction of prison industries and skills. The gentleman may want to take another look at that.

Mr. MCCOLLUM. I don't argue with everything—against everything in the crime bill, just some portions of it. Big portions.

Mr. HUGHES. The gentleman voted against that, I might say. The gentleman from California, Mr. Berman.

Mr. BERMAN. No questions, Mr. Chairman.

Mr. HUGHES. The gentleman from Wisconsin.

Mr. SENSENBRENNER. No questions, Mr. Chairman.

Mr. HUGHES. Frank, thank you. You really have been very helpful on an important subject. I think we have probably spent more time with a member on this issue than anything I can remember in a long time. It is an important issue, and you have been very helpful to us in providing the kind of leadership you have. Thank you.

Mr. WOLF. Thank you, Bill. I am very grateful. Thank you.

Mr. HUGHES. Our next witness is no stranger to the subcommittee. Director Hawk has testified before this subcommittee on three previous occasions. She is the sixth Director of the Federal Bureau of Prisons since its existence. She was appointed to the position on December 4, 1992, and has been with the Bureau since 1976. She received her doctorate of education in 1978 from West Virginia University.

Director Hawk has held a number of positions with the Bureau including warden of the Butner Federal Correctional Institution in North Carolina.

You have been joined, I understand, by Steve Schwalb this morning, the new Chief Operating Officer for the Federal Prison Industries.

We have your statement. Without objection it will be made a part of the record in full. And summarize for us, if you can.

STATEMENT OF KATHLEEN M. HAWK, DIRECTOR, FEDERAL BUREAU OF PRISONS, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY STEVE SCHWALB, ASSISTANT DIRECTOR AND CHIEF OPERATING OFFICER, FEDERAL PRISON INDUSTRIES

Ms. HAWK. Thank you, Mr. Chairman and members of the subcommittee. I certainly appreciate the opportunity to appear before you today to provide you with an update on current Bureau of Prisons and Federal Prison Industries issues, particularly as they relate to inmate employment.

The specific purpose of this hearing is to discuss H.R. 703, the Prison Inmate Training and Rehabilitation Act of 1993. The administration's position on this bill is still under review.

Among the issues being reviewed are potentially serious trade policy concerns and the impact of expanding the program on domestic businesses and workers.

As this subcommittee is well aware, the Bureau of Prisons faces unprecedented management challenges stemming from the burgeoning prison population. To meet these challenges, the Bureau conducts an array of correctional programs which include drug treatment, religious and self-improvement programs, institution services employment, and the industrial employment program conducted by Federal Prison Industries, or FPI.

In this regard, FPI is clearly one of the most important correctional programs conducted by the Bureau. In addition to meeting the Bureau's statutory mandate to employ and train inmates, thereby providing them with the work skills necessary to find and obtain employment upon release, FPI is also essential to the security of our Federal correctional institutions in the communities where they are located. FPI's importance has become even greater since the elimination of parole and the limiting of good time sentence reductions in the Federal system.

The opportunity to obtain an FPI job is one of the few remaining incentives for good behavior that is left in our institutions. And as you indicated, Mr. Chairman, it should also be stressed that FPI is a program that really works.

In a study of over 7,000 Federal inmates over a 5-year period, it was shown that inmates who had worked in FPI were more likely to find and keep a job upon release. They earn higher wages, and they were significantly less likely to return to a life of crime.

It should also be emphasized that FPI does not receive congressional appropriations for its operations. That is a matter that is particularly important in these times of fiscal and budgetary constraints.

In addition to the success that FPI has enjoyed in meeting the Bureau's inmate employment and training needs, it has also been successful in meeting its statutory obligations to continually strive to avoid any adverse impact its activities could have on the private sector.

First, the statute requires that FPI diversify so as to minimize its impact on any single private industry.

Second, FPI is overseen by an independent Board of Directors that are appointed by the President. The Board members represent

industry retailers, consumers, labor, and agriculture, as well as the Attorney General and the Secretary of Defense.

And third, FPI must undertake a public industry involvement process before entering new product lines or significantly expanding any existing product levels.

And while not required by statute, FPI also established the Office of Ombudsman about 2 years ago to serve as a liaison between the private sector and FPI.

The future for FPI will necessarily be much like the recent past. Given a projected total inmate population of 130,000 by the year 2000, FPI will have to create 5,000 new jobs in order to accomplish the Bureau's goal of employing 25 percent of the inmates in our secure institutions.

This trend was recognized by Congress in 1990 when it commissioned an independent market study of FPI operations. A principal objective of that study was to identify new growth opportunities which would enable FPI to meet the Bureau's employment needs.

Upon release of that market study in 1991, the Brookings Institution sponsored a dialog of the study's findings and recommendations and coordinated a Federal industries summit process. While the summit considerations did not produce consensus, they did serve to open and expand the lines of communication between industry, trade association, business, labor, and FPI.

As the Federal marketplace changes, FPI is actively studying new growth approaches, many of which came out of the summit discussions. Some of these ideas under review include statutory authority for FPI to conduct recycling and other resource reclamation activities and to sell these products and services associated with such efforts on the open market.

Statutory authority is also being reviewed to produce and sell products to recognized disaster relief agencies, such as the Red Cross. These proposals, along with others, such as the proposed legislation which is the subject of today's hearing, are all aimed at helping FPI meet the challenges of the future. All such initiatives must be subjected to a rigorous cost-benefit analysis, a review of their international implications, and a review of their effects on domestic businesses and workers to determine the extent to which the potential to assist FPI is offset by other marketplace and economic considerations.

Mr. Chairman, this concludes my formal statement. As I mentioned at the outset, the administration's position on this bill is still under review. Therefore, I am unable to answer questions specific to H.R. 703. However, I would be very pleased to answer any other questions that you or the members of the subcommittee might have.

[The prepared statement of Ms. Hawk follows:]

PREPARED STATEMENT OF KATHLEEN M. HAWK, DIRECTOR, FEDERAL BUREAU OF PRISONS, U.S. DEPARTMENT OF JUSTICE

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you today to provide you with an update on current Bureau of Prisons' and Federal Prison Industries' (FPI) issues, particularly as they relate to inmate employment. The specific purpose of this hearing is to discuss H.R. 703, the "Prison Inmate Training and Rehabilitation Act of 1993." The Administration's position on this bill is under review. Among the issues being reviewed are potentially serious trade policy concerns and the impact of expanding the program on domestic businesses and workers.

As every member of this Subcommittee is well aware, the Bureau of Prisons faces unprecedented management challenges stemming from the burgeoning Federal prison population. Since 1980, the total inmate population under the custody of the Bureau has increased by more than 230 percent, from 27,800 to over 92,000 today. Over 84,000 of these Federal prisoners are housed in Bureau-operated facilities located in 75 communities across this country. Based on current projections, the Bureau's overall inmate population is expected to reach 130,000 by the year 2000. To meet this requirement, there are 30 new Bureau institutions in various stages of planning, design, and construction.

To meet these challenges, the Bureau conducts an array of correctional programs, which include vocational training initiatives, secondary and post-secondary education programs, drug treatment, religious and self-improvement programs, recreation and athletic programs, institutional services employment, and the industrial employment program conducted by FPI. In this regard, FPI is clearly one of the most important correctional programs conducted by the Bureau. In addition to meeting the Bureau's statutory mandate to employ and train inmates, thereby providing them with the work skills necessary to find and retain employment upon release, FPI is essential to the security of Federal correctional institutions and the communities where they are located. FPI is also critical to ensuring the safety of inmates and the dedicated correctional staff of the Bureau. FPI's importance has become even greater since the elimination of parole and the limiting of good time sentence reductions in the Federal system. FPI employment, and the opportunity to obtain an FPI job, is one of the few remaining incentives for good behavior inside our secure facilities.

It should also be stressed that FPI is a program that really works as it was intended. In a study of over 7,000 Federal inmates over a 5-year period, it was shown conclusively that inmates who had worked for FPI were more likely to find and keep a job upon release, earned higher wages, and were significantly less likely to return to a life of crime. It should also be

emphasized that FPI does not receive Congressional appropriations for its operations, a matter that is particularly important in these times of fiscal and budgetary constraints.

This year marks the 60th anniversary of FPI. As an integral and vital component of the Bureau of Prisons, FPI's growth has paralleled that of the Bureau's. In 1980, FPI employed about 6,100 inmates, and sales to government departments and agencies totaled around $117 million. By 1990, reflecting the rapidly rising inmate population, FPI's employment had risen to 13,700 and sales had reached $344 million. Just 3 years later, at the end of fiscal year 1993, FPI inmate employment was approaching 16,000, or about 25 percent of the inmates in secure institutions. Inmates work in over 80 factories and FPI sales now exceed $400 million per year. As correctional professionals in the Bureau of Prisons, we believe that the ratio of employing about 25 percent of the inmate population in secure institutions is as low as is acceptable from a corrections management perspective.

In addition to the success that FPI has enjoyed in meeting the Bureau's inmate employment and training needs, it has also been successful in meeting its statutory obligation to continually strive to avoid any adverse impact its activities could have on the private sector.

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First, the statute requires that FPI diversify so as to minimize its impact on any single private industry. FPI is diversified to the point that it produces more than 150 different products and services which are classified under 46 entirely different Standard Industrial Classification industries.

Second, FPI is overseen by an independent Board of Directors appointed by the President. Board members, by statute, represent industry, retailers, consumers, labor, and agriculture, as well as the Attorney General and the Secretary of Defense. The Board's two principal functions are to ensure a sufficient level of work to keep inmates busy, and to minimize FPI's impact on private industry and labor. I can assure you that the Board is especially sensitive to its responsibility to the private sector.

Third, by law, FPI must undertake a public and industry involvement process before entering new product lines or significantly expanding existing production levels. This process requires extensive private sector interaction prior to any Board decision to authorize FPI expansion. I believe that the process has kept the Board and FPI management constantly vigilant about the impact, if any, that its activities could have on the private sector.

Finally, FPI established the Office of Ombudsman about 2 years ago, to serve as a liaison between the private sector and FPI.

The Ombudsman listens to private sector concerns, reaches out to business and labor, and generally seeks to find ways for FPI to work cooperatively with organizations which have an interest in FPI operations.

The future for FPI will necessarily be much like the recent past. Given the projected total inmate population of 130,000 by the year 2000, FPI will have to not only maintain its current employment level but will have to create an additional 5,000 new jobs, in order to accomplish the Bureau's goal of employing 25 percent of the inmates in the secure institutions which will be coming on line. Given projected spending cuts by government agencies, and the increasing number of small businesses which operate in the same traditional industries as FPI, it will become increasingly difficult for FPI to continue to grow while simultaneously continuing to minimize its impact on the private sector.

This trend was recognized by the Congress in 1990, when it commissioned an Independent Market Study of FPI operations. A principal objective of the Study was to identify new growth opportunities which would enable FPI to meet the Bureau's employment needs, while continuing to minimize its impact on the private sector. The study made four major growth strategy recommendations:

1) FPI should continue to maintain a solid production base in its traditional industries of furniture, apparel and textiles products, electronics components, and printing;

2) FPI should be authorized to enter into partnerships with and sub-contract its labor to private sector companies selling products on the open market, which otherwise would have purchased labor or components from offshore sources;

3) FPI should increase its efforts to sub-contract with Federal government prime contractors to perform labor intensive operations; and

4) FPI should be given a mandatory source procurement preference for selected services, enabling it to increase its inmate employment through sales in this growing segment of government procurement.

In outlining an implementation strategy for these future directions, the Study saw the new growth strategies as inextricably linked with growth in traditional industries. Sales of traditional FPI products and services would have to continue to grow and FPI's procurement preference would have to stay in place, in order to meet inmate employment demands unless and until inmate jobs could be created in the new areas and substituted for projected traditional requirements. FPI and the Bureau of Prisons have been assessing the feasibility of the

Study's growth strategies and other recommendations, in conjunction with a broadly representative group of stakeholders.

A major observation of the Congressionally-mandated Market Study was that the declining Federal market, coupled with the dramatic increase in the inmate population would continue to raise private sector concerns. Competition within the declining Federal market, which is FPI's only market, is increasing dramatically. Already, FPI has had to increase its reliance on the sale of its furniture products to offset losses in other product lines. FPI has also seen earnings decline to levels which make it increasingly difficult to generate the capital needed to finance construction and equipment for new factories.

Upon release of the Market Study in August 1991, the Brookings Institution sponsored a dialogue on the Study's findings and recommendations and coordinated a Federal Prison Industries Summit process. The kick-off Summit was followed by a series of working group deliberations, leading to a second Summit session. The first Summit was attended by more than 75 representatives from business, labor, the criminal justice system, and the Congress. The final Federal Prison Industries Summit had over 100 participants, and the proceedings of the year-long Summit process have been forwarded to this and other Congressional Committees.

While the Summit deliberations did not produce consensus, they did serve to open and expand the lines of communication among industry, trade associations, business, labor, and FPI. Following the Summit, I appointed an Implementation Committee comprised of private sector and FPI representatives. The Committee ensures an ongoing dialogue and is a vehicle for exploring new ways to meet the Bureau's inmate employment needs, while continuing to minimize any potential adverse impact. The Committee has already met twice during 1994, including a session which included visits to the Federal correctional facilities in Allenwood, Pennsylvania and Lewisburg, Pennsylvania.

As the Federal marketplace changes, FPI is actively studying new growth approaches, many of which came out of the Summit discussions of the past 18 months. Some of the ideas under review, include:

(1) statutory authority for FPI to conduct recycling and other resource reclamation activities, and to sell products and services associated with such efforts on the open market, subject to appropriate safeguards to protect trade and domestic labor interests;

(2) enactment of a procurement preference for selected services, secondary to the preference currently established for the blind and severely handicapped, which would allow FPI to meet inmate employment needs in this growing segment of Federal procurement; and

(3) statutory authority to produce and sell products to recognized disaster relief agencies, such as the Red Cross.

These proposals, along with others, such as the proposed legislation which is the subject of today's hearing, are all aimed at helping FPI meet the challenges of the future. All such initiatives must be subjected to a rigorous cost-benefit analysis, a review of their international implications, and a review of their effects on domestic businesses and workers, to determine the extent to which their potential to assist FPI is offset by other marketplace and economic considerations.

Mr. Chairman, this concludes my formal statement. As I mentioned at the outset, the Administration's position on this bill is still under review, therefore, I am unable to answer questions specific to H.R. 703. However, I would be pleased to answer any other questions you or other members of the Subcommittee might have.

Mr. HUGHES. Thank you very much, Madam Director. Why don't we look at possibly paying minimum wage and at the same time begin to charge inmates for room and board in the prison system?

Ms. HAWK. That is certainly a consideration, Mr. Chairman. As you know, that issue has been raised many times, and much discussion has been held. Our belief is that, should the offshore issue come into focus, we would then be only competing against employees who are not part of our domestic market but are rather employees of other countries. We do not believe the issue of the minimum wage is really necessarily one that must be considered as we look at expanding our market and being able to employ more inmates.

Mr. HUGHES. One of the concerns obviously is that we raise a number of international and other questions when we begin to market goods in the private market, because of the fact that it is essentially unfair competition. I don't think many people would disagree with the fact that there are some limiting problems with prison labor, and that is that they have a structured environment.

There are a lot of security and other problems, which means that the private sector would have a hard time, given those circumstances, if they were in your position, competing also, without some advantages. But why not structure a wage scale that basically would take that into account, but would move us in the direction of fairer competition, and at the same time offset lost revenues, because the industry is self-sustaining, begin to charge room and board, basically to have the inmates pay for being housed and fed, and providing educational opportunity.

Ms. HAWK. Are you speaking, Mr. Chairman, just in reference to inmates who work on offshore projects, or are you talking in general?

Mr. HUGHES. I am talking in general.

Ms. HAWK. I think you touched very clearly on one of the reasons why we have resisted the idea of paying minimum wage, because it does make it difficult for us to be competitive. By running factories within institutions where you have major security concerns, you have a work force that you have to oversee and monitor in ways very unlike anybody else in the private sector.

There are many factors that make it difficult for us to be competitive. We have, though, compared costs. If we would start charging inmates for all the services that are provided to them in the workplace, it would end up with not as significant of an adjustment in wages, if we were able to factor in the cost of incarceration.

But it is an issue that has been explored many times, we could continue to explore it further, sir.

Mr. HUGHES. Grant you, we would have to take into account the fact that your mission is manyfold, besides making profit. Your primary goal, obviously, is to provide punishment, discipline, everything—rehabilitation—that you are charged with. But I don't think you would get much of an argument, I wouldn't think, from either the private sector or labor, if there was some type of an allowance for that, in structuring a wage base with some payment back to the Bureau to offset the losses, because of the fact that you are paying a wage now that is a little more of a living wage.

Ms. HAWK. Yes, sir. We can certainly continue to explore that, Mr. Chairman. As you indicated, there again, we view our Federal

Prison Industries program as a correctional program, much more than a factory or a profitmaking operation. All we are trying to do is sustain the operation by manufacturing items that can sustain it.

So we have not really endorsed or pushed heavily on the idea of funding at the minimum wage level. But we can continue to explore that.

Mr. HUGHES. We are losing ground, though. I am a little troubled by a portion of your statement that suggests that in order to basically offset some of the losses in other product lines, you have to put more emphasis upon furniture manufacturing. That suggests to me that we are not making very much progress in our effort to diversify.

So we need to look at a whole host of potential options. And we do, as I recall, in our halfway houses, encourage just what I am talking about. They make a living wage, do they not, in the halfway houses?

Ms. HAWK. Yes, but they are working for private sector employers, not the Bureau of Prisons.

Mr. HUGHES. They are working for the private sector, but it seems to me it might be worth considering looking at some type of a pilot program that would do that, at least begin to discuss with the private sector and labor the prospect of trying that, see how that works.

Would it be feasible to do that in a pilot program in this system?

Ms. HAWK. I wouldn't want to answer that for sure until we can step back and analyze the impact. We would be very happy to do that and come back and report to you.

Mr. HUGHES. Have we looked at that possibility in the past? And what have your experts told you in the past? I can't believe we haven't looked at that possibility.

Ms. HAWK. We have looked at the minimum wage issue, as you know, many times from a lot of different vantage points. We have continually, I believe, put forward the belief that it is very difficult to approach it from a minimum wage standpoint. Because industries is a correctional program, it is not an attempt to have inmates make large amounts of money, but it is a program to help them teach skills, and there are factors that affect us that are very different than the private sector.

So our conclusion was always not to move forward with minimum wage. But, you know, as I say, we are very willing——

Mr. HUGHES. The minimum wage is adjusted——

Ms. HAWK. Adjusted down for cost.

Mr. HUGHES [continuing]. to take into account the fact that you are at a competitive disadvantage, because your mission is a lot different than the private sector's mission, where what they want to do is make a profit.

Ms. HAWK. Yes, sir.

Mr. HUGHES. It seems to me we could so structure a pilot program that basically would take that into account, make that a kind of allowance, basically change the manner in which we charge inmates. There is nothing that I can see by way of a constitutional impediment for us requiring them to help pay their way.

I mean, if I read the trend that I see in Congress, I am a little concerned, because frankly I wasn't joking when I said that if somebody offered an amendment several weeks ago that would take away all training for inmates, that might have carried.

I mean, Pell grants are now on the chopping block, and I think that is very shortsighted, although I understand the arguments, but it is shortsighted. Frankly, I think probably an amendment that would say, we don't want to provide any schooling, any training for high school, for anything, would probably carry around here, which is kind of sad, because I think it is very, very shortsighted.

But it points up that I think we need to take a long, hard look at restructuring our prison industry program in view of the fact that we are going to have a crisis in just a few years. We have overcrowding now, it is getting more and more difficult basically to provide the kind of employment that will provide the skills we seek. And so, I know we have been studying options for a long time, but we need to get down to cases.

I would like to see us develop some kind of pilot program that will address some of the concerns that exist and begin some serious dialog again with the private sector and with labor and see if we can't reach some consensus. We need to do it. Otherwise, you are going to have terrible problems.

Ms. HAWK. Mr. Chairman, we are and we will certainly pursue the issue of minimum wage and come back to you with an analysis of that and a pilot program, if one is feasible. We are exploring many different areas, as you know, and some of those are ready to move forward.

The recycling issue with mattresses, we are moving forward on that, we are working with private industry; and the implementation committee that flows from the Brookings summit is very actively working to put into practice some of these things.

The comment that was in my testimony that indicated that we would have to continue to rely on our traditional markets was more a cautionary statement if we don't continue to get the support—clearly as we have gotten from this subcommittee, but also from private sector and labor. If we can continue to get the support we have been getting to move forward in these other areas, we will not have to rely on traditional markets, because that is not what we want to have to do, we want to expand it. We have movement occurring in that direction very clearly.

Mr. HUGHES. I will be anxious to see any analysis you would want to provide on attempting to increase that wage we pay with some offset for room and board, so to speak, and for training, for education.

We need to think in terms of moving in that direction. We are going to have complaints no matter what we do.

Ms. HAWK. Yes, sir.

Mr. HUGHES. You are going to have complaints from labor and industry no matter what we do, because they like it both ways, like all of our constituents. We are going to have to bite the bullet and come up with something that makes sense, that is fair and reasonable. And let's go back to the old studies and review them in terms of present day conditions, such as initiatives on the floor of the

House of Representatives that take away Pell grants and money for training and other things. Because, frankly, that is what we are going to have to face in the years ahead.

Ms. HAWK. Yes, sir.

Mr. HUGHES. The gentleman from California.

Mr. MOORHEAD. Thank you, Mr. Chairman.

I certainly agree with most of the comments our chairman has made. I just wonder if we had all the figures, what percent of the prisoners have wives and children back home that are on welfare? If they were making some money that could be returned to those wives and children, we could pay a fair wage and still not cost the Government any money in the long run, if you consider the State and local governments are supported by the taxpayers.

So I don't think you have to be totally parsimonious with the paycheck, if these people's wives are being supported by the Government anyway. We could get them off of welfare, perhaps, or at least off of part of it.

Ms. HAWK. I believe you are exactly right, Congressman, that many of our inmates do have spouses and children that are being supported by the Government. But I think it is important to remember that Federal Prison Industries does not get any appropriated funds. The money that would have to be paid through the wage would not be out of the appropriation that we would receive. It would have to be out of the selling of products.

We currently have an inmate financial responsibility program, and inmates who work in Federal Prison Industries are required to pay a portion of their salary toward any existing fines and any child support that is required of them, and also are expected to send a portion of their money home to their wives and children to offset their needs.

Mr. MOORHEAD. I agree with the chairman, there is nothing wrong whatsoever with requiring them to pay for part of their costs in prison. Those costs are getting higher and higher all the time. And it is becoming more difficult for our people to have to pay those additional taxes.

Neal Miller recommends in his testimony, the Federal Prison Industries should be authorized to adopt the PIE program concept utilized by the States. Congress has approved the prison industries enhancement program which permits certified State prison industry programs to produce private goods for interstate commerce provided certain conditions are met. That is 18 U.S.C. 1761.

The conditions include, among others, payment of a comparable wage and participation in the programs being voluntary on the part of the inmate.

What is your feeling about this?

Ms. HAWK. We would certainly not oppose any expansion of that program to include Federal prisons. It does, though, put us into the situation where we could be selling many more items on the private sector market which we do not have an ability to do at this time, which I am sure would get a great deal of reaction from other folks representing the private sector.

But we would not be opposed to that being expanded to include Federal Prison Industries also. That would then require, if we were selling on the domestic market, paying the minimum wage, as you

indicate, and we would fully understand that going into that type of a program.

Mr. MOORHEAD. Frank Wolf brought up the issue of manufacture of television sets. Of course, we know that virtually—at least the parts of the television sets are manufactured abroad today. It is a subject I brought up many times in this committee, so I am very interested in his comments about it.

There must be a number of other industries where we are totally dependent upon foreign manufacture for those products. I don't want to see prison industries become a place where we just get cheap labor and we make a profit off of the prisoners and so forth by selling labor at a cheap price, and obviously hurting our own workmen in our countries.

But in areas where we have lost the work, and providing a reasonable rate of pay is given so that we are not violating the principles that organized labor and others have in our country about fair wage for a fair amount of work, it would seem to me that we could take some preliminary steps in that direction to see whether we couldn't go—I know Mr. Coble has been worried about the furniture business carrying the brunt of this for a long time.

And that is the cry we get in opposition to prison industries. We have been able to go in and maintain prison industries so far. But I think it is time that we start finding other products where we wouldn't get that same complaint. And if we are going to train these people to work when they get out, punishment isn't the only thing you have to do in prison. You have to make sure when they get out, they are going to have a chance to go straight. And they do need to be prepared for the outside world.

And I know there are places that innovative minds could find areas where they could be working and being trained for work and still product would bring in a sufficient amount of money to pay for that.

I think we all need to put our thoughts in order in going in that direction, because things are not working right today, when you have the average Federal prisoner a four-time loser, something is dead wrong.

And I think we could do a lot to change that. You have got a very important job where your thinking and your innovation can go a long way towards changing that, and I think we on the subcommittee would like to help you as you move in those directions.

We are tired of recidivism. We don't want it. It is costly to our country. The courts are jammed full with criminal cases. If we could only reduce some of those by doing away with that recidivism, we would be doing a great service to the country.

Ms. HAWK. Absolutely, Congressman. I agree with every single thing you indicated. If I could address a couple of pieces of it. As you know, the Deloitte & Touche market study made a recommendation to explore the offshore issue even prior to it coming out in the form in H.R. 703. We did an analysis of the market and the wages being paid in other countries, and we find that we can compete with many of the items that are being made in various different parts of the world, and that there are manufacturers and employers out there who are very interested in working with the Bureau of Prisons once legislative authority is granted.

It is just a matter at this point of the administration and some of the other agencies sorting out how we can effectively make this a doable thing so it doesn't run into conflict with some existing statutes. The administration is very supportive of Federal Prison Industries. We are doing some creative things to be able to explore some other markets so we don't continually impact the traditional ones.

There are many things moving forward, and we are simply exploring them all to see what creative things can be made reality so we can expand our markets.

Mr. MOORHEAD. Thank you very much.

Mr. HUGHES. The gentleman from California, Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman. It is always very helpful to have you here, Director. I think you know in the crime bill we are making an effort to assist you in this exploding, unacceptable population increase in the Federal prison system.

My hat almost came off when you said it is going to be 130,000 prisoners by the turn of the century, which is only a few years away, when I remember around 1980 or so, or around there, the prison population was 25,000.

This amendment we call a safety valve in the crime bill should be the beginning of some assistance for nonviolent, minimal, criminal record prisoners in drug cases. That is absolutely overwhelming. It must be very distressing to you to have a lot of people there who should have other forms of punishment rather than extended prison sentences.

Ms. HAWK. Absolutely, Congressman. And we appreciate that effort, too.

Mr. EDWARDS. Thank you, Mr. Chairman.

Mr. HUGHES. The gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, I think this has been a very illuminating meeting. I think it has been time well spent.

Director, it is always good to have you back with us. I will consolidate my questions into one, if I may, to extend what the gentleman in California said. The ideal situation, Ms. Hawk, it seems to me would be if prisoners were made—if jobs were made available to every inmate, you will do this, you will do this one, you will be occupied, you will be paid for it, you will put the money aside.

I am sure there are some prisoners, however, who will say, I ain't going to work, I don't care what you have, I am not going to work. Perhaps I should know the answer to this, but I don't.

My question is, in that situation, where a prisoner absolutely refuses to work, is there any way that you can force him to work, I guess you can perhaps offer incentives for him to work, but is there a remedy for that?

Ms. HAWK. As the chairman indicated earlier, we require every sentenced inmate in the Bureau of Prisons to work, if he or she is physically able to work. Those who have not been sentenced, we cannot force them to work.

But those who have been sentenced are required to work or be involved in some constructive activity for at least 8 hours a day. Federal prison industries only employs inmates in our secure facilities, that is only a small percentage of our total population.

The other inmates work in all the jobs that have to be done to maintain an institution. They work in the food service, the maintenance crews, plumbing crews, any possible work that can be done, the inmates do that for us.

There are very few inmates who ever refuse to work for an extended period of time, because our response to that is to take away some of their benefits—their recreational activities are severely limited, their ability to freely move about the institution and take part in a lot of the other kinds of things that are considered more recreational are absolutely prohibited.

So usually those refusals to work are very short term in nature. It is more through disincentives than anything else that we encourage them to get back into the work force. We have very few inmates who refuse to work on an ongoing basis.

Mr. COBLE. I assumed that was the case. I wanted to get it for the record.

Now, these various and sundry jobs, are in many instances the prisoners paid for performing this work?

Ms. HAWK. Yes, Mr. Congressman, they are paid, but not a wage comparable to what they are able to be paid in Federal Prison Industries.

Mr. COBLE. Let me ask you another question. Mr. Chairman, maybe we are getting a little far adrift from Mr. Wolf's bill, but maybe not. At a previous hearing before this subcommittee, the gentleman from Wisconsin, Mr. Sensenbrenner, proposed the considered that FPI, Federal Prison Industries, become involved in the manufacturing of shelters for the homeless. Let me extend that a yard or two.

Recycling programs, whereby you set aside plastics and papers and metals and so on, I am told in many instances these commodities that are set aside for recycling because it is not cost effective, they are stored somewhere and I guess left to rot. Is there any way we could utilize inmate work forces to address the problem of recycling these goods, number one, and also the manufacture of shelters for the homeless? Has that been pursued?

Ms. HAWK. Let me start with recycling first. The recycling issue is one we are pursuing very actively. The statute prohibits us from selling to the private sector, as you know. We cannot sell what we have recycled to anybody, unless it is the Federal Government, and the Federal Government has a limited market for recycled products.

We are, though, able, under current authority—and it is a project we are moving forward with concerning recycling—we are able to accept donated goods, the Government is able to accept donated goods, and then we are able to not add value to them, but just by separating them, we are then allowed to sell donated items.

That is the relationship we have now with the mattress manufacturers. We are going to be moving forward on that very soon. And we hope to have it up and running by the end of this summer, where the mattress manufacturers have discarded mattresses, that is, they are trying to find someplace to get rid of so they don't just fill the landfills.

We will then be able to sell what is left from the pieces of the mattresses to the private sector. That is to begin before the end of the summer.

Also, the Department has completed its legislative package—and it is now circuiting through the other agencies for comment—that would enable us to come forward seeking authority to be able to sell other recycled products. It could be very limited, there could be lots of limitations placed upon us, whatever this subcommittee would see as appropriate to protect the private sector.

We are going to be seeking authority to be able to do more recycling of things that can be sold to the private sector.

In terms of the shelters for the homeless, we are seeking authority to make some things, as I mentioned earlier, that could be sold to charitable organizations that help the needy, such as disaster relief blankets and other types of structures, perhaps that could help in times of disaster.

We are also exploring the possibility, as they are doing in industries in Maryland, of actually building houses, modular homes in the prison system, and then being able to take them out in the community and sell them.

We can't sell to the private market. We are exploring with HUD the possibility of being able to work through HUD or some other part of the Government, a way to create structures and then be able to sell them.

We are exploring many different possible ways to go. Unfortunately, as the chairman indicated earlier, we run up against someone who is against any idea we bring forth.

Mr. HUGHES. Many of the mobile homes built in this country are built in North Carolina.

Mr. COBLE. I know that.

Mr. BERMAN. We said shelters for the homeless. We didn't say mobile homes.

Mr. HUGHES. I can see my trade unions going berserk over homes for the homeless, because the trade unions in my area are underemployed, unemployed, and we wouldn't solve any problems that way.

You are not going to find a product offshore or here that you are not going to have some problems with. We have to make up our mind.

Mr. COBLE. Reclaiming my time, Mr. Chairman, I am well aware of that, but I felt that this was the time and place to at least get this on the table. I am certainly aware of the surrounding problems.

Ms. Hawk, let me ask one more question. I think my time has about expired. But back to Mr. Wolf's bill specifically, in simple terms of inmate jobs, does the offshore growth strategy have the most potential? You may not be able to answer that today.

Ms. HAWK. The Delo.tte & Touche analysis indicates that there is a potential of 4,000 jobs that could be found through offshore initiatives.

Mr. COBLE. 4,000?

Ms. HAWK. Yes.

Mr. COBLE. Would that offer the most potential, do you think, or should we——

Ms. HAWK. Of the four strategies that were set forth by Deloitte & Touche and that we have been actively pursuing, this is the one that has the greatest potential for employment.

Mr. COBLE. Thank you.

Mr. HUGHES. The gentleman from California, Mr. Berman.

Mr. BERMAN. Thank you, Mr. Chairman. I think it is a very important subject. I read just a couple of days ago that the State of California, which has a University of California system, a State university system and a community college system, now spends more money on its prisons than it spends on higher education. The State spends a great deal on higher education.

So the fact is, this is a real serious issue. You are talking about it in the Federal context. It is also important for the States. I am a very strong supporter of this, and I want to help in any way I can.

I would like to know, in terms of China, we have prohibitions and restrictions on importation of products made by slave labor. Mr. Coble asked about people who don't want to work in the prisons. Obviously, a part of our thinking is that in China, some of the people are imprisoned unjustly for political acts. But we don't make that distinction.

We aren't trying to find whether it is slave labor of criminals or not. It is slave labor. Tell me your thinking or what is the thinking on how prison industries is different than that.

Ms. HAWK. This is a portion of the issue that is still being reviewed by the administration. So as it specifically applies to the Wolf bill, I would need to come forward in the future and present the administration's position for the record.

However, historically when the question has come up regarding whether or not our inmates are to be considered slave labor, the distinction was made earlier by—it may have been Mr. Wolf or a member of the subcommittee, since all of our inmates must work, those who work in Federal Prison Industries who create a product that is then sold currently to the Government or eventually perhaps to the private sector, those inmates are in there totally voluntarily.

No one is ever made to work in prison industries. The jobs that individuals have to work on are the basic maintenance jobs around the institution.

So there is no benefit——

Mr. BERMAN. Where there is a product involved that is for sale, on the outside, it is a purely voluntary program?

Ms. HAWK. Absolutely. And in fact we have very lengthy waiting lists in all of our factories. We have never reached a point where we have to force anybody to work in Federal Prison Industries.

Mr. BERMAN. The chairman mentioned Mr. Coble and the furniture industry. I was thinking about the California furniture industry and the Los Angeles furniture industry. Prison industries could compete with all those California-owned furniture industries that are now manufacturing in Mexico. I am thinking through the implications of all that.

Is there a GATT problem here in encouraging industries which seem to have less American jobs and more foreign jobs? It is hard for me to understand that a decision to manufacture televisions or

VCR's or components there that happen not to have any jobs in the United States, that that in and of itself would constitute some kind of GATT problem.

Is there a GATT problem here?

Ms. HAWK. I am certainly not an international trade expert by any means, and these are the kinds of issues that are still attempting to be resolved by the administration, so that, again, we don't run into conflict with existing regulations or statute, but also can enable Federal Prison Industries to move forward in exploring some creative alternatives.

Mr. BERMAN. I missed that. In other words, you don't know?

Ms. HAWK. The issue that you raised is continuing to be worked on by the administration, to resolve.

Mr. BERMAN. Who is working on this? Where do I find the person who is working on this?

Ms. HAWK. The Department of Commerce, the Trade Representative——

Mr. BERMAN. Is the State Department involved?

Ms. HAWK. Yes.

Mr. BERMAN. Where? Who? The Economic—or the Trade Representative's Office?

Mr. SCHWALB. The administration's review of this is being steered by the Office of the Trade Representative, with other agencies including Commerce, GSA, State, Small Business Administration——

Mr. BERMAN. I may be treading on ground that has already been covered by witnesses and questions before I got here, and I apologize if I am. Thank you. I have no further questions.

Mr. HUGHES. Thank you.

The gentleman from Florida.

Mr. MCCOLLUM. Thank you. You mentioned that 25 percent of a defined class of prisoners are working for Federal Prison Industries.

Ms. HAWK. It is 25 percent of those prisoners who are in our secure facilities, so that eliminates all of our minimum security institutions, and it also eliminates inmates who are having medical problems or are in pretrial status that have not been sentenced yet.

The final number that was employed in Federal Prison Industries at the end of 1993 was 16,000 inmates. That is obviously less than 25 percent of our total population.

Mr. MCCOLLUM. Which is now what?

Ms. HAWK. Our total population inside our institutions is 84,000 inmates. We have another 9,000 that are in contract facilities or halfway houses.

Mr. MCCOLLUM. For the 16,000 who have been employed by the Federal Prison Industries, how are their wages determined at the present time, their compensation or whatever they receive?

Ms. HAWK. I would defer that question to Mr. Schwalb who can answer it more specifically for you.

Mr. SCHWALB. We have five pay scales that we assign based on the complexity of the work inmates are given. The entry level wage currently is 23 cents an hour, and it goes up to $1.15 an hour, depending upon what kind of skill they develop, their seniority on the job, and longevity and overtime pay.

Mr. MCCOLLUM. And what you can afford to pay is a factor in this, too.

Let me make a broad comment, Ms. Hawk, because it is a predicate to a question. It seems to me, having visited the prison industry issue for years myself, that there are two basic problems with the public on the efforts that you make to produce or expand product lines.

One of them is very simply inherent in the fact that at least with the Federal prison industry program, it is the Government itself that is the employer, if you will, and the product is being selected, not necessarily arbitrarily, but it isn't being driven by the market forces, the decision to produce a certain product is being driven by a very statutorily and regulatorial confined process.

And therefore there are industry groups like furniture and textiles who are always going to object to you being into their place because they are going to be arguing you are artificially displacing their market.

The second thing it seems to me that is the factor that is most egregious out there in the public eye is the pricing of the products, the fear of pricing of any product that might be sold in the marketplace generally or, for that matter, even the product you are selling anyway inside the narrow confines you are allowed to now isn't going to be competitively priced, that is, that because this is, quote, "slave labor," or it is prison labor or whatever the image is out there that the end product is going to be cheaper, and therefore it won't be fair for you to be into that marketplace.

So I phrase the question here based on that, that seems to me to be one of important policy, and I maybe haven't phrased it quite right, but I have tried. If private industry is used, and there is a competitive pricing of products that are produced by prison labor, is there in your judgment any public policy reason not to allow prison-made goods to be sold to the general public in regular commerce?

I can repeat it again, because it is a policy question, and I will repeat it again.

If private industry is used, and there is a competitive pricing of products produced by prison labor—that is a big part of this—is there any public policy reason not to allow prison-made goods to be sold to the general public and general commerce?

Ms. HAWK. What you are describing, Mr. Congressman, is the PIE program, the prison industry enhancement program, that currently only applies to the States. In the PIE program, in order to be able to sell any product they wish to make to the private sector, there simply are some requirements they have to meet, which is to pay prevailing wage and some other factors.

Mr. MCCOLLUM. But there is a catch to that and that program requires the minimum wage issue that has been an Achilles' heel to get private industry involved in the past in the experience I had serving with Chief Justice Burger's Commission and so forth.

What we have found in the studies I have been involved with is that it is the chicken and the egg, you can't get private industry in if you have to pay that minimum wage. So you really have to be able to give them a break, because prison labor is not going to be as productive for them, with people turning over, as it would be

for them to hire somebody in the private sector they can have more regularly employed and not have to worry about retraining often.

So they have to have a break. And the minimum wage standard has not worked anywhere I know, and that has kept that program from being very efficient. It seems to me that the key to this is getting a competitive pricing mechanism for a particular product line, finding a device through the Department of Commerce or through some sourcing to average out what the competitive price would be at a different general market area that you are going to be selling the product in, whether it is a State or a region.

And once that is determined, have a floating scale that is acceptable to private industry and labor so that the product itself is priced in a fashion that would allow you to not threaten the private marketplace.

And I would just encourage—I don't know that you put my thought into this, but I would just encourage that some look be made into this aspect of it. I think every time I have been involved, Mr. Kastenmeier years before, Mr. Hughes and I have had discussions about this, and we both came to the conclusion that the wage entry aspect of this was not an appropriate way to go.

In those years, the Federal Prison Industries was not particularly interested in entering into the private marketplace, because you didn't have the explosion of the population you do now. So this discussion that we used to have was always over how do we help the States.

But now you are going to have to be facing it, and I would encourage you to look beyond the wage question, because I don't think you can solve the problem if you can't involve private industry.

I don't think you can involve private industry if you cannot—if you have to face the minimum wage question, if you can't find a way around it.

So I am just encouraging you to look at the pricing mechanism as a way around that.

Ms. HAWK. OK.

Mr. MCCOLLUM. Thank you.

Thank you, Mr. Chairman.

Mr. HUGHES. Thank you very much. Your testimony has been very, very helpful to us, again, Director Hawk.

I have a number of questions which I did not get to, but I will submit them to you and ask you if you would respond for the record within 10 days. Thank you, again.

I would like to bring forward at this time our first panelists, Fred Braun, currently the president of the Workman Fund, a nonprofit foundation which he initiated and which has as its primary goal the training and employment of inmates. He is the CEO and largest shareholder of Henke Manufacturing Corp., which has inmates comprising 50 percent of its employees. He is a consultant, having previously been president, to two other companies that employ inmates from the Kansas penitentiaries; Zephyr Products, in which 100 percent of its plant employees are inmates, and Heatron, Inc., in which 45 percent of its employees are inmates.

Mr. Braun has a very impressive business career which began in 1959. He started various companies, rescued others from bankruptcy, and has been quite successful in his business endeavors.

He earned a master's degree from Harvard University in 1959 and graduated with a degree in economics from Lafayette College in Pennsylvania in 1955. He served in the Army at Fort Dix from 1955 to 1957.

In addition to his successful business career, he has been extremely active in community activities. He has served as city councilman, chaired several Governors' task forces, served on numerous neighborhood and community committees, and has been very active in church affairs.

Our other panelist is no stranger to the committee. Warren Cikins is a good friend of the Judiciary Committee and has been involved in this issue for many, many years. He is currently the vice chairman of the National Committee on Community Corrections and a volunteer consultant to the Federal Bureau of Prisons.

He has been a valuable mediator in the attempt to find a compromise between Federal Prison Industries and the private sector. Mr. Cikins has likewise had an illustrious 41-year career in Washington. He served three Members of Congress, Senator Engle of California, Senator Muskie of Maine, and Congressman Brooks Hays of Arkansas; two Presidents, Kennedy and Johnson; and two Justices of the Supreme Court, Warren Burger and Tom Clark.

He also served as two-term elected member of the Fairfax County Board of Supervisors and as a speechwriter for then Gov. Tony Anaya of New Mexico.

He has staffed about six national commissions such as the Civil Rights Commission, the Equal Employment Opportunity Commission, and the Advisory Commission on Intergovernmental Relations. Last year he retired, he semiretired, from Brookings Institution. A graduate of Harvard College and the Harvard Kennedy School of Government, Mr. Cikins also has a joint graduate degree from the Universities of Alabama, Tennessee, and Kentucky.

He is a wonderful guy with great stories. We are going to hear one before the day is out. Welcome.

Mr. Braun, let me begin with you. We have your statement which will be a made a part of the record. We hope you will summarize for us. We really do appreciate you coming such a distance to share your insights with us.

STATEMENT OF FRED P. BRAUN, JR., PRESIDENT, THE WORKMAN FUND, LEAVENWORTH, KS

Mr. BRAUN. Yesterday at this time I was in a factory filled with inmates, and we were making snowplows, in Leavenworth, KS. It had been a private sector company in Iowa that was bankrupt. We and several cohorts spent $400,000 to buy it and move it to Kansas so we would not displace any people when we took over this bankrupt company.

The inmates are all inmates from the State penitentiary in Lansing, KS, the next community. This is the third time I have done that. I work with the inmates—I hired the 30 inmates that work—I personally interviewed them and hired them. The company before that, Heatron, there are now approximately 40 inmates out of 160

people working in that factory. I rescued that company. It was bankrupt.

In Missouri, I moved into Kansas and built a factory in the prison to do the same things. I hired most of the inmates and worked together with those inmates. I did that previously with a company called Zephyr Products that has been written up in all the journals.

I probably have more in the trenches of hours of working with inmates and seeing the benefits of working with inmates. And I am a private sector guy who is very much concerned about being fair, however, in these kinds of relationships.

How do you have both these things work together properly? In addition to that, I have started a foundation with my own money, essentially, and I put a couple of million bucks of my own money into these ventures, all with no return to myself personally. I do this because I am fairly convinced that inmate work programs are the single best way to reduce recidivism in the country today.

And so there is no argument, I have no argument about that, in fact all of my statistics that I have kept on every person that has worked for us, our recidivism rate is half of the normal rate.

If they can work for me and work in a factory with Fred Braun, working his tail off, fabricating steel products or heating elements, when they get out of jail, they are ready to work somewhere else. They are prepared to work. They have the skills, the work habits, and so on. I am really proud of the effort that I have spent for about 15 years.

Now, how do you do all this to be fair to everybody, to be fair to the unions, to be fair to the competitors, to make sure that the inmates aren't being exploited? So I think there are already guidelines in place, in the PIE program, that need to be inserted in this bill.

And if they are inserted in this bill, I am all for this deal.

I especially like Mr. McCollum's comments that you need, maybe instead of looking at wages, to look at pricing as a way, marketplace pricing as a way to come at this, because when you look at this wage thing, all of our companies pay the minimum. The minimum is Federal minimum wage. That is the bare minimum.

And I believe that every inmate should—and with any private sector operation—at least be paid that, Federal minimum wage. That is the bare minimum they should be paid.

And then, if there is a wage rate in the area for those skills, they should have paid that. Now, this isn't glamorous. This doesn't suck all kinds of people into the deal. It is a hard, in-the-trenches, finding of one company at a time.

But it is the only fair way to protect the furniture manufacturing companies and the little clothing manufacturing companies and the embroidery companies and so on and so forth.

And it has got to be fair. Now, I fight these problems day in and day out. My neighbors know for 15 years that I have been committed to this. And my neighbors look at me day after day, and they say, Fred, is it fair what you are doing, is it fair? And I say, yes, it is fair because there are these eight guidelines, six guidelines that the PIE administration, the PIE requirements have in place.

And they are, one, wages must be paid at a rate not less than paid for work of a similar nature in the locality in which work is performed.

They are in the statutes now. Why should the Federal Government get a special deal that the State governments have to abide by? And it is because the State prisons are burgeoning much more than the Federal prisons. And the States don't have the markets for their products. So legislation, work legislation is really required more for the States who have the burgeoning—who don't have the markets that the Federal Government has. This is much more critical an issue for the State governments than it is for the Federal Government from my way of thinking.

Deductions—these guidelines are guidelines that have been attached to my speech, basically inmate workers, they should pay taxes. Inmates, if they are given the opportunity to work, should have to pay taxes. Social Security should be paid; workers comp, unemployment should be paid. All of those things need to be paid if the private sector is involved in any way.

And I think these things can be done with these guidelines put in there. It is tough. It is hand to hand. It is fighting for every—there is no magic deal that you bring offshore stuff in or you bring this magic or recycling—those are buzz words that have been around for the last 10 years. It is a bunch of bull.

People say recycling. What is recycling? It is a lot of little things out there and most recycling is a conveyor mine of crap coming down the line and people handpicking the parts and the pieces and throwing them in one pile versus the other.

So these big buzz words of going offshore and recycling and so forth, it is ridiculous. You have to get in, you have to have legislation that is fair, and I think if this wonderful bill has these guidelines put in that the States now have to abide by, it can be a fair deal and a good deal for everybody. But it is going to be tough.

Thank you.

Mr. HUGHES. Thank you.

[The prepared statement of Mr. Braun follows:]

PREPARED STATEMENT OF FRED P. BRAUN, JR., PRESIDENT, THE WORKMAN FUND, LEAVENWORTH, KS

Everyone in the corrections field agrees that all inmates, including federal, state, and local, should be provided realistic work opportunities while incarcerated. The benefits to all concerned are not in dispute. The real question is how this is to be accomplished on an equitable basis, fair to competitors, unions, the taxpaying public, and the inmates themselves.

In 1979, Senator Charles Percy of Illinois introduced a bill in Congress called The Prison Industries Enhancement Act. It permitted seven pilot work projects to use inmate labor in the making of goods that could be sold across state lines and to the federal government. The Percy Amendment, as it came to be called, allowed private companies to directly employ inmates, to subcontract the employment of inmates, to manage prison industries, and to market inmate-made goods. Currently there are approximately 32 states and 102 programs operating under this legislation.

The final Percy legislation contained guidelines designed to assure economic equity, mitigate complaints of unfair competition, and guard against inmate exploitation:

1) Wages must be paid at a rate not less than that paid for work of a similar nature in the locality in which the work is performed.

2) Deductions, which cannot in the aggregate exceed 80 percent of gross wages, may be taken for taxes, room and board, family support, and victim restitution, and only for those purposes.

3) Inmate workers cannot solely, by their status as offenders, be deprived of benefits made available to other individuals in the workplace, such as workmn's compensation insurance.

4) Participating inmates must do so voluntarily.

5) Local union central bodies must be consulted prior to the initiation of any such project.

6) Such paid employment must not result in the displacement of employed workers or impair existing contracts for services.

Surely, Federal Prison Industries should not be exempt from the federal guidelines required of all existing state and local PSPI programs.

(From America West Airlines Magazine, December 1993)

inside business

by ann wylie

Working Things Out

Fred P Braun Jr was shocked. As a member of a task force set up by former Kansas Governor Robert Bennett, Braun was examining why the Kansas State Penitentiary at Lansing was having difficulty hiring and retaining guards. The problem, it turned out, was that the guards were bored watching over prisoners who themselves did little but watch soap operas all day. Wasn't there anything productive for them to do? Braun asked.

Well, said the warden, nearly 70 percent of the inmates were actively employed. But by actively employed, he meant they were picking up paper, cleaning the kitchen and sweeping the stairways for about two hours a day.

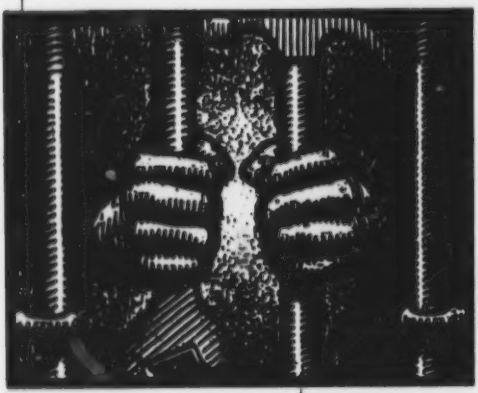

Illustration by John MacDonald

"I walked through the prison," says Braun. "There were rows and rows of inmates in their beds watching TV at 10 a.m.—rooms and rooms of people with nothing to do. I was horrified."

That was in 1976. Today, Braun is horrified no more. In fact, he is part of the solution. For the past 15 years, this Lake Quivira, Kansas, entrepreneur has been buying small manufacturing companies to employ prisoners and providing capital to other businesses to do the same. Since their inception, Braun's enterprises also have increased tax revenues, taught prisoners job skills, lowered the number of ex-cons who end up back in jail and helped them get a new start in life.

His companies might never have been born had Braun himself not been without work. After spending a decade buying up dying manufacturing plants and turning them around, Braun had sold off his businesses by the late 1970s, reaping a "couple million."

"The blinds came down," says Braun, who starts each day at 5:30 a.m. by rowing at a local lake for an hour. "I didn't know what I was going to do. There's nothing worse than a driven, goal-oriented guy not knowing what to do next."

The prisoners' plight gave Braun an idea: He'd buy another manufacturing company and locate it near a penitentiary. Prisoners would get on a bus, go to a job, do a full day

of work, earn some money and, after they had served their time, be in a position to function in normal society.

Prison officials didn't exactly welcome Braun's plan. "Prisons are not real comfortable with change," says John Callison, Lansing Correctional Facility deputy warden for programs. Although other companies had employed prisoners on-site, Braun was the first to propose taking inmates outside prison walls.

After receiving the go-ahead in 1979, Braun purchased Zephyr Products, a sheet-metal fabricating plant he staffed with 20 inmates. "It's fun to be first," Braun says. "But when you're out front, you get a lot of arrows shot at you. We did a lot of things wrong. We thought hiring inmates would be just like hiring civilians. We were wrong."

Indeed, many prisoner employees lacked even rudimentary job skills. One could barely use simple office supplies; he started his job as a punch press operator by stapling his finger. Because many prisoners had never held a steady job, they didn't have basic work habits; just getting to work on time was a challenge. And as prisoners were released, Zephyr suffered uncontrolled turnover.

To make up for a lack of job skills, Braun decided to use more supervisors and employees than normal. Because of rapid turnover, the plant didn't take on large rush orders. And when some prisoners weren't allowed to leave prison grounds, supervisors and nonprisoners took over their jobs.

In 1981, after he'd worked most of the bugs out of his system, Braun launched another plant, Heatron Inc., a producer of electric heating elements.

In all, more than 400 inmates have worked for Braun's plants. The prisoners, who earn $4.25 an hour, pay 45 percent of their wages to the state for expenses such as room and board and victim's compensation. To date, the program has saved Kansas more than $1.5 million.

It also has given prisoners a better chance of getting a job after being released. "One of the important things Fred has accomplished is that inmates could meet industry quality and production-control standards," says George Sexton, president of the Philadelphia-based Criminal Justice Associates, a training and assistance organization for correctional agencies.

Thanks to a profit-sharing program, prisoners also leave Braun's companies with money for a new start. The prison system usually gives prisoners $100 on release, but Braun's employees can save several thousand dollars.

All in all, Braun's efforts have led to a win-win situation for both former inmates and the state prison system. During the 15-year history of Braun's program, 70 percent of the participants have stayed out of prison; in Kansas overall, about half of all ex-convicts end up back in jail within three years of their release.

And Braun has proved that social responsibility can be good business. Zephyr logged profits of $86,500 on 1992 sales of $1.8 million; Heatron netted $154,000 on 1992 sales of $5.2 million.

In 1986, Braun decided he could have a bigger impact if he became an evangelist for private-sector prison industries. He sold the bulk of his ownership in Heatron and Zephyr to the employees, and now is looking for a few good companies to finance through the Workman Fund. Through this venture-capital fund, Braun is encouraging other business owners outside of Kansas to create Heatrons and Zephyrs across the country.

He's already closed a deal in Draper, Utah, where Workman invested $50,000 in a garment-sewing operation called Rustik. The year-old company, which operates inside prison walls, employs 21 inmates and expects to hire more.

But for Braun, the bottom line is the work itself. He may be speaking of himself as well as the inmates he's employed when he says: "Most people take work for granted, but I think work is the greatest rehabilitator of all. Right or wrong, our society revolves around work. It defines us. If you don't have meaningful work, you're at a loss." ■

Ann Wylie of Kansas City is editor of Ingram's *magazine.*

Mr. HUGHES. Warren, welcome.

STATEMENT OF WARREN I. CIKINS, VICE CHAIRMAN, NATIONAL COMMITTEE ON COMMUNITY CORRECTIONS, AND FORMER SENOR STAFF MEMBER, THE BROOKINGS INSTITUTION

Mr. CIKINS. Thank you Mr. Chairman. Mr. Braun, you are a hard act to follow. I have admired what you are doing for many years. I had the privilege of meeting you several years ago.

Chairman Hughes, members of the subcommittee, it is of course a great pleasure to appear before you today to comment on the proposal made by Congressman Wolf, to provide the increased employment of Federal prison inmates.

As mentioned already several times, I appear in my capacity as moderator of a 2½- to 3-year effort that has been made to find a reasonable middle ground between the interests of the Federal Government, the Bureau of Prisons, the private sector, and the union movement.

Again, as you have heard, there have been two summits over this 2½- to 3-year period to try to find that middle ground. And as Ms. Hawks also pointed out, her commitment has remained strong because there is an effort continuing under Federal Bureau of Prisons auspices by an implementation committee of some 10 participants, and I am sitting as a kind of consultant to that effort as well.

And I might mention, I think it is appropriate to say, Mr. Chairman, that throughout all of this effort, this subcommittee staff, Jarilyn Dupont, Veronica Eligan, Hayden Gregory, Linda Hall, Phyllis Henderson, Edward O'Connell, and William Patry have been a very special help to all of us. I want to thank the subcommittee for that. About 10 other House and Senate staffers have also contributed to our insights, including Joe Wolfe and Tom Mooney of the minority.

My involvement stems from, as you are well aware, the 15-year effort on behalf of Chief Justice Warren Burger and William Rehnquist, to bring the three branches of government together. One of the great satisfactions of that experience was getting to know you, Mr. Chairman, and many members of the House Judiciary Committee, especially of this subcommittee. It has really been very pleasant to hear the kinds of comments from you, from Congressman Moorhead, Congressman Coble, and Congressman McCollum, we all have been long time, dear friends. So this is home territory for me in a sense.

And I can hardly wait, Mr. Chairman, to have this hearing published so I can show it to my wife. That would be very helpful.

And I might say, Mr. Chairman, I want to pay tribute to you for the historic contribution you have made in your efforts for improving the functioning of government as it impacts the judiciary. We are going to miss you in this position that you now hold.

In 1981, Chief Justice Burger made a historic address to the Nebraska Bar Association entitled "Factories With Fences." That motivated many of us in this room to get more deeply involved. There is nobody that would allege Warren Burger was soft on crime. Far from it. He gives full recognition that wrongdoers should be punished appropriately. He also calls for literacy training and prison

industries to reduce recidivism rather than permitting what he terms a destructive trend in the treatment of the Nation's wrongdoers.

Therefore he has championed many efforts to offset that destructive trend. Even though we are moving this effort in a constructive direction, problems arise when some of the products that FPI makes, such as furniture, electronic equipment, textiles, printing, come into competition with the private sector. We have also heard the value of the product is some $400 million a year now and growing.

The situation is exacerbated when the Federal Government market shrinks, especially the Defense Department. One of the minuses of a great plus that we have a far less threat to the security of our country and therefore we are putting less resources into the Defense Department, is that the Department has been the market for a lot of the products of Federal Prison Industries.

So that market is shrinking, and that coupled with the fact that we have so many more inmates coming into the system, is really putting enormous pressure on that system.

Do you realize that the prison population was about 25,000 in 1980, and it is soon to hit 100,000, we have heard of it going higher. I wonder what corporation could withstand that kind of quadrupling of the pressures on it in that short period of time? It really is awesome.

I take my hat off to the Federal Bureau of Prisons even coping with that at all, four times the influx of inmates over that relatively short period of time.

So we gathered in a group effort to find other options than the conventional products made by FPI to ease current tensions and economic pressures. The congressionally mandated Deloitte & Touche study made a number of thoughtful recommendations in that regard, one of which brings us here today. And we have heard many thoughtful comments on that as well.

Mr. Chairman, in that regard, I bring to your attention, I recall for you the old statement of Harry Truman long ago that he wished there were more one-armed economists since he was tired of hearing on the one hand and on the other hand. And I am going to disappoint you today, because the two-armed approach is exactly my position.

Having presided over what I would think I would gently describe as fiery debates over these past 3 years of negotiating, I must confess that this produces some very impassioned rhetoric, making it difficult to preserve what my great mentor, a person I revere, the late Congressman Brooks Hays of Arkansas, often cited in his congressional service as the need for reciprocal forbearance, just plain civility.

We maintained it, but just barely. This is a tough question. But I think it might be useful in the time permitted to indicate, and I will do it quickly, the eight strengths and eight weaknesses of Congressman Wolf's proposal. I have made sure there are eight on each side. It might help give you a total perspective, much of it has already been discussed here, but maybe it will help to put it in that total context so you can understand the difficulty you are confronting.

To start on the plus side, the Wolf bill makes inmates available to U.S. business to perform labor-intensive processes that are currently being performed by offshore labor, number one; two, it eases tensions caused by production of products that compete with the domestic private sector; three, it enables FPI to meet its employment targets by adding some 4,000 to 5,000 jobs by 1999; four, it enables FPI to provide quality training for its inmates, that is a crucial issue; five, it enables FPI to meet its financial obligations; six, it could help provide products and services to support nonprofit and humanitarian efforts; seven, the choice of five pilot programs enables an incremental increase in employment while measuring the success of the effort; and, eight, it could help domestic labor by creating jobs, something that hasn't been mentioned yet, for free labor because of the demand for raw materials, transportation services, and the construction of facilities and equipment. Those are the eight pluses.

But now the eight limitations. First, while conceptually sound, it is difficult to identify products that meet the standards of what is "offshore." Can language such as, quote, "in large part" suffice on such a matter? It is really difficult. We don't know in a global economy what is offshore produced. It is tough to define.

Two, the pay issue is a most complex one with the question of the feasibility of paying prevailing wages. I know Congressman McCollum has struggled with that over many years, exactly how you cope with that and how that impacts on the feasibility of the effort.

Three, the perception of breaching the barrier to sale in interstate commerce would cause considerable disturbance in the private sector. May I emphasize that, that while that is being talked about here, if you sat in on these meetings that I have held over these last 3 years, you would understand what an incendiary concept that is for a lot of folks.

Four, the legislative proposal does confront the issue of exemption, from interstate commerce prohibition, and this requires the authorization of joint production agreements and the authorization of awarding contracts without the use of competitive procedures.

Five, then an issue of federalism here regarding the impact of this effort on State correctional industries, the PIE program that has been elaborated on to a great extent.

Six, international trade questions are raised regarding our posture in overseas use of prison labor, and the impacts of GATT and NAFTA.

Seven, labor unions raise another very valid question of providing greater assistance to private sector working as currently displaced by the use of Federal inmate labor, a way of possibly reconciling the problem by doing something which has been applied to many other areas to help labor that has been displaced by the use of Federal inmate labor in areas such as retaining and extended unemployment benefits.

Finally, the issue of reconciling the differences between FPI, the business sector, and the union sector it might be controversial enough to leave wounds that would impair the success of a number of other strategies that we are currently engaged in, the subcontracting strategies, the service strategies, a range of strategies

that were all in Deloitte & Touche study that we spent several years looking at. So you can't just carve this one out from the total sweep of issues involved.

So those are the eight on each side. It would be not proper, Mr. Chairman, not to conclude with at least one Brooks Hays story, but it is really once removed. It was because of Brooks Hays that I heard him tell about a great Congressman from California back in the 1940's, Jerry Voorhis. Mr. Voorhis said he understood these issues are so difficult, and that he would like on one of these difficult issues, when he had to vote when his name was called on the roll, and in those days there was no electronic vote, he would want to walk to the well of the House when his name was called on the roll and respond to that call on a tough question, "Mr. Speaker, I vote 51 percent for and 49 percent against." Many of these issues are of that kind. And this is a 51–49. I am not entirely sure on which side the 51 percent lies.

My years of mediating differences does not give me the wisdom to recommend a clear-cut policy in this area. So, Mr. Chairman, I leave the matter for the subcommittee's great wisdom. And I wish you well.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Cikins follows:]

PREPARED STATEMENT OF WARREN I. CIKINS, VICE CHAIRMAN, NATIONAL COMMITTEE ON COMMUNITY CORRECTIONS, AND FORMER SENIOR STAFF MEMBER, THE BROOKINGS INSTITUTION

Chairman Hughes, and Members of the Subcommittee, it is a pleasure for me to appear before you today to comment on a thoughtful proposal made by Congressman Wolf to provide increased employment of federal prison inmates. I appear in my capacity as moderator of a 2-1/2 to 3 year effort made to find reasonable middle ground between the interests of the federal government, the private sector, and the union movement. Two summit meetings of some 100 key participants occurred during that time, one in June 1992 and the other in July 1993. The effort continues under Federal Bureau of Prisons auspices by an implementation committee of 10 participants. Subcommittee staff, especially Hayden Gregory and Jarilyn Dupont, have been valuable resources. I might add that about 10 other House and Senate staffers have also contributed.

My involvement stemmed from my 15-year effort, on behalf of Chief Justices Warren Burger and William Rehnquist, to bring the three branches of government together to resolve common problems in the administration of justice. One of the great satisfactions of that experience was getting to know you, Mr. Chairman, and many members of the House Judiciary Committee. You have made an historic contribution to improving functioning of government as it impacts the judiciary. We will all miss you.

In 1981, Chief Justice Burger made an historic address to the Nebraska Bar Association entitled "Factories With Fences." Giving

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full recognition that wrongdoers should be punished appropriately, "no soft on crime" here, Chief Justice Burger calls for literacy training and prison industries to reduce recidivism rather than permitting what he terms "destructive trends in the treatment of the nation's wrongdoers." He has championed many constructive efforts in that regard.

The Federal Prison Industries (FPI) effort, celebrating its 60th year this year, operating on a self-sustaining basis, has been proven to make a real difference. Problems arise, however, when some of the products it makes, such as furniture, electronic equipment, textiles, and printing, come into competition with the private sector, the dollar figure amounting to over $400 million/yr. The situation is exacerbated when the federal government market shrinks, especially the Defense Department, since the FPI effort is restricted by law from entering interstate commerce. Having a lot more inmates to employ doesn't help, either.

Our group effort has been designed to find other options than the conventional products made by FPI, to ease current tensions and economic pressures. The Congressionally-mandated Deloitte-Touche study made a number of thoughtful recommendations in that regard, one of which brings us here today, the recommendation that FPI undertake partnerships with the private sector to provide inmate labor to produce products currently manufactured offshore, to be

used for domestic U.S. consumption. Mr. Chairman, you recall that President Harry Truman wished there would be more one-armed economists, since he was tired of hearing "on the one hand and on the other hand," but I must be disappointing today because the two-armed approach is exactly my position. Having presided over many fiery debates in over three years of negotiating, I must confess this topic produced some of the more impassioned rhetoric, making it difficult to preserve what my great mentor, the revered Congressman Brooks Hays of Arkansas, called "reciprocal forbearance" or just plain civility.

Based on my mediation experience and the complaints heard at the summit, I will first briefly indicate the strengths of the proposal and then conclude with the difficulties.

(a) it makes inmate labor available to U.S. business to perform labor intensive processes that are currently being performed by offshore labor;

(b) it ease tensions caused by production of products that compete with domestic private sector;

(c) it enables FPI to meet its employment targets (by adding some 4,000 to 5,000 jobs by 1999)

(d) it enables FPI to provide quality training for its inmates;

(e) it enables FPI to meet its financial obligations;

(f) it could help provide products and services to support nonprofit and humanitarian efforts;

(g) the choice of five pilot programs enables an incremental increase in employment, while measuring the success of the effort; and

(h) it could help domestic labor by creating jobs for free labor because of the demand for raw materials, transportation services and the construction of facilities and equipment.

Some of the limitations of this effort are as follows:

(a) while conceptually sound, it is difficult to identify products that meet the standards (can language of "in large part" suffice in this matter?)

(b) the pay issue is a most complex one, with the question of the feasibility of the effort, especially if prevailing of minimum wages are required. Are we prepared to provide tax incentives in this regard?;

(c) the perception of breaching the barrier to sale in interstate commerce would cause considerable disturbance in the private sector;

(d) the legislative proposal does confront the issue of exemption in this unique case of exemption from the interstate commerce prohibition, requires the authorization of joint production agreements, and the authorization of awarding contracts without the use of competitive procedures;

(e) there are issues of federalism here, regarding the impact

of this effort on the state correctional industries;

(f) international trade questions are raised, regarding our posture in overseas uses of prison labor, and over requirements under GATT and NAFTA;

(g) labor unions raise the question of providing greater assistance to private sector workers currently displaced by the use of federal inmate labor in areas such as retraining and increased or extended unemployment benefits; and, finally

(h) this issue in reconciling differences between FPI, the business sector, and the union sector, may be controversial enough to leave wounds that would impair success in other strategies of subcontracting and services delivery.

In the immortal words of Jerry Voorhees, a great congressman in the 1940s who often wanted to vote 51-49 on complex issues, this is a 51-49 issue, and I am not entirely sure on which side the 51% lies. My years of mediating differences between all the sectors involved does not give me the wisdom to recommend a clearcut policy in this area.

Mr. HUGHES. We will record you as being 51–49.

Mr. CIKINS. And you can decide which way.

Mr. HUGHES. Thank you, Warren.

Mr. Braun, I found your testimony to be absolutely fascinating and intriguing. You have had a remarkable career. I think most of us would salute you for really a great commitment to what you saw as a tremendous need in the prison industry system.

Like you, I agree that I think a solution to much of our crime problem today is to pay more attention to inmates when they are in the system, where we can prevent the kind of crime that is occurring throughout the country.

And I am fascinated, as you can tell from my colloquy with the Director of the Federal Bureau of Prisons, that there is great concern over paying a higher wage. And I would like to know what you attribute your success to, I know you pointed to six high principles, but at the heart of that you summarized it by saying, it is fair, it doesn't please everybody, but at least it is fair?

Can you argue to your neighbors in the private sector that it is fair, it is needed, but is it fair.

And I happen to believe, like you, that we can look at paying more, charging for room and board and other things, saving some resources. You use an 80–20 percent rule for payment of moneys, using no more than 80 percent for restitution, reimbursement for room and board, training, support for family and victim restitution and 20 percent goes to the inmates.

How do you attribute your success in finding marketable commodities for the private sector paying that kind of a wage? In some instances, I understand it is the prevailing wage.

Mr. BRAUN. I have dogged it. There is no easy—when you are bucking a system and there are trench competitors and people and ways of doing things, you have just got to do it one bite at a time. There are no major, all sweeping answers to this.

It is a matter that right now there are 32 States and three other counties have PIE, prison industries enhancement programs in place. They are roughly 100 programs out there now that abide by these eight guidelines that were set up by the Percy rulings, 5, or 6, or 7, or 10 years ago.

Mr. CIKINS. More than that.

Mr. BRAUN. Fifteen years ago, I guess. It is tough to find those opportunities, to find a company—that is why I look for bankrupt companies, because I am not displacing Kansas workers with Kansas inmates. So I look for a bankrupt company.

I look for a bankrupt company because I want to put as little cash in as possible, because the monetary return to me is not my motive for doing this.

So I don't want to risk a lot of money personally in a deal I am not going to get a return on, I am not looking for the personal return on. I look for a company where the skills are usable and transferable. And because there are a lot of companies where they are—inmates could be mending fences, picket fences and so on, what they learn from that is really going to be meaningless.

It is better to have them doing that than sitting in the cells doing nothing. But many programs in the prisons today are meaningless. It is a make work stuffer.

The programs out there now that are private sector oriented are really, from a job creation and a job skills standpoint, much more attuned to what is needed in the marketplace.

I look for an owner of the company or someone that wants to buy a company that is willing to buy into the inmate deal, and then try to finance him to get him into it. That is the incentive.

Mr. HUGHES. Is financing a problem?

Mr. BRAUN. Well, I started a venture capital fund. That is what the Workman Fund is.

Mr. HUGHES. So there was a problem. You had to create your own venture capital.

Mr. BRAUN. That is correct. I had to get the financing to encourage people to get into this, because the average private sector businessman doesn't want to spend the time working and going through the folderol with the Federal Government, the State government, and the State prison system, and the changes in the wardens and the secretaries of correction.

It would drive a business guy crazy to have to deal with State government and all the changes.

There are two totally different systems you are bringing together. The survival of the small private enterprise, and these have to be small private enterprises. If you start hiring a lot of inmates, they are going to impact the economy, they are going to impact the competition, and then there are going to be all sorts of political problems.

So they have to be small bites, so to speak, to be eligible. So I think financing private enterprise people to do this is necessary, and that is why I created the Workman Fund to try to help find people who would come in and do the same thing I am doing.

Mr. HUGHES. Pricing is very complex, because as you, I think, would concede, there are a lot of disadvantages to basically forming a joint venture and using prison labor, because of security and a whole host of other problems that are confronted.

Have you ever determined, you know, what is perhaps the percentage of disability in using prison labor for pricing purposes?

Mr. BRAUN. It varies with companies and with jobs. What you have to look at in each instance is, what is the learning curve for that job and that company? What is the learning curve of that deal?

In Zephyr Products, the first company, we had to have an inmate 18 months before we paid that guy the Federal minimum wage, and it would be less than what somebody else would be paid that wasn't an inmate.

If we had that inmate 18 months and he learned the skills and so on, from the 18th month on, we were making extra money on that inmate, in other words, there would be a benefit of having an inmate employee versus someone else in that situation.

Now, in Heatron, it is a year, it is 11 months. It is an assembly operation, a hand assembly, like making crockpots or television sets or whatever it might be, hooking wires up. It takes 12 months for an employee, inmate employee or someone else, and if the inmate gets bounced in the first 6 months or the first 5 months because he had done something wrong at the prison, that is costly for that private sector company to have that inmate.

So if you can average at the second company an average employment of 12 months, then the benefit, economic benefit of having that inmate employee is beneficial economically to the corporation.

And so each job and each company must be looked at at the learning curve, the cost of training and turnover, because there is no question that the good inmates that you have, after 2 years, they get paroled and they are gone; you start all over again.

Mr. BRAUN. And the inmate that raises all kinds of problems at the prison. In 6 months, he doesn't come in the day that he is supposed to work the sheer and you say, where were our guys yesterday? What happened to the three guys we were supposed to have yesterday to come to the company and work? Well, they did a urine test last night at the prison and those guys tested positive for drugs inside the prison and they are not your employees any more. You have just lost those three.

So most private sector people, unless they are able to roll with that and understand that that is part of the system that they are buying in with, they are not going to do this. So you have to have an average term of employment that gets you past the learning—the cost of the learning curve, and that varies with each company.

Mr. HUGHES. So insofar as finding offshore jobs, that basically is just another wild goose chase.

Mr. BRAUN. I am a small business guy, I am not a big—you know, I fought—12 years ago or 15 years ago when Burger did this, I was the only guy that stood up and said, guys, let's think about the realities of these. We are talking big picture benefits and so on and so forth. Let's go out in the trenches, in the boonies, and see how this stuff is really going to work. What are the competitors going to say?

When I set my first company up in Leavenworth, KS, with my own money, no subsidies, no special deals, all the investment from the private sector, the first person that complained was not a union, but my competitor in the next town. A competitor.

Another sheet metal outfit went to the State legislature and said, Fred Braun and Zephyr Products has an unfair advantage, because he has inmates from the Federal penitentiary. We were doing a quarter an hour, the Federal minimum wage then. He has inmates and I have to pay comparable people $4 an hour in the next town to do the same thing.

Now, fortunately, Arthur Young, the Arthur Young Co., was hired by the State and by a foundation to put the money in the pot to quantify the cost of the learning curve and the turnover that is inherent and the extra training and problems you have when you have inmates.

Inmates are problems. It is much harder to run an inmate company than a normal company. Inmates have tremendous up and down emotional cycles and you never know where they are in that cycle.

And I have been very successful with inmate companies and noninmate companies. Frankly, it is a lot easier to be successful with a noninmate company than have an inmate employee. You don't have to muck around with the State government and worry about all of these extra kinds of things.

Essentially, the Arthur Young study documented the cost of the productivity loss, the turnover, the training and so on, and when it was all said and done, it evened out, and we have that study as used today as a basic study for support of the PIE legislation. And so they found that there was no inherent advantage, at least in the Zephyr Products situation, of having inmates versus noninmates.

Mr. HUGHES. So the bottom line was you were able to argue persuasively that it was fair?

Mr. BRAUN. It was fair, that is correct.

Mr. HUGHES. Not unfair, and that is the bottom line.

Mr. BRAUN. And if you can't argue that, you are going to have all kinds of problems from everybody.

Mr. HUGHES. You are never going to——

Mr. BRAUN. Never going to end.

Mr. HUGHES. You are not going to, first of all, do anything about the competitor, you can't argue that. But you can win the fairness argument.

Mr. BRAUN. That is right. Fair to the taxpayers, fair to the inmates, fair to the competitors, and fair to the unions. I think if you can work those guidelines into this legislation you can make it a workable deal. But it is not going to overnight open up 27,000 new jobs for the Federal prison industry by waiving a wanted sign and doing this and that, it won't happen that way.

Mr. HUGHES. Warren, do you think that is fair?

Mr. CIKINS. Sure. What I might also say is having watched Mr. Braun here and looking at what we are involved with here, we are in a collision of a lot of righteous positions. Everybody is right. That is the toughest thing to resolve when you have a collision of a lot of people and everything each one of them argues is right. There is really no wrong here, but what is the relative order of the rights in what you are trying to do here. What you see in Mr. Braun that has impressed me for many years, and others that I have seen at work in this field, is a sense of righteousness or conscience, and there is a need for that ingredient to come to a resolution of this. Because when you have a set of rival rights that are involved, relative rights and how you order them and structure them, you have to give people like Mr. Braun the opportunity to put that type of effort in place and at least try to break even. As I recall in the earlier years I knew him, he was losing a fair amount of money.

Mr. BRAUN. That is correct.

Mr. CIKINS. During those early years. So it had to take something more than a straightforward business approach for him to take the initiative. And I might mention in that regard at Brookings over the many years that I was there, I had an opportunity to interface with Fortune 500 business officials. We had over the years hundreds of top officials of the Fortune 500 come to Brookings for seminars. And I always would have somebody, even if it was never done by anybody else at Brookings, I always had a topic for prison industries on my agenda with them, and I would always have someone address the issue. And Chips Stewart who was the head of the National Institute of Justice at the time often came and he would make a presentation.

Well, bottom line, maybe 200 Fortune 500 organizations came before me, the high level officials, and only 1 ever responded favorably. This is tough, getting a commitment out of the private sector.

We need to find a way to clone this man many times over to give him a fighting chance and others like him a fighting chance to make it. It is not that they are getting unfair advantage, they get the opposite. A heck of a tough job to make it work.

Mr. HUGHES. Thank you. The gentleman from California.

Mr. MOORHEAD. Well, thank you, Mr. Chairman.

There are a number of States that have adopted this program permitting outside workers. How many people are there like you that have been willing to take the risks and go into this kind of thing?

Mr. BRAUN. I wanted to be a Congressman or a Senator as my goal and my wife said she would divorce me if I pursued that.

Mr. MOORHEAD. She would have had good reason.

Mr. BRAUN. So I had to find another way to unleash my energy on community and national problems that would satisfy her in addition to giving me the chance to be a leader and to tackle big issues and try to change the system, so to speak. This has been a tremendous challenge.

It doesn't seem possible, but I have been in the trenches fighting this battle for 16 years. We need to find—and we have looked for—tax advantages that can be given to speed this up. Should there be Federal set-asides for prison industry? Is that a way to do it? You get all caught up in the minority situation when you talk about Federal set-asides as a way to handle this. I have found the best way is to try to set up special financing vehicles to reward legitimate businessmen who will take the risk and will go in and try some of these things inside the prison.

Mr. MOORHEAD. Are there many doing that?

Mr. BRAUN. Very few. Because the States, in essence, are intransigent. Remember, the States themselves, the warden of the State penitentiary gets all sorts of punishment if someone escapes. The whole prison system is based on security. No matter where they are, security is the number one paramount. How can we warehouse as many people as possible without people escaping?

Mr. MOORHEAD. Have you had any attempts?

Mr. BRAUN. No, none whatsoever. None at all for 14 years.

Mr. MOORHEAD. Have you had any violence or any——

Mr. BRAUN. None whatsoever. The inmates are so pleased to have a chance to work and gain the skills and save the money and be responsible. We make it clear, leave all your inmate crap back in the prison. You are a responsible worker now when you come to work, when you start working for Zephyr or Heatron or Hanky. We expect you to make the best snow plows that you can possibly make, to weld as fast as you can. This is a company, a private sector company. You are going to pay taxes, you are going to be responsible, you are going to save money, and when you get out of here, you are going to be able to get a job. And most of the inmates want to hear that. Most of them.

Mr. MOORHEAD. You mentioned earlier, however, that when they get into trouble in the prison, then you lose your employees. Does that happen many times?

Mr. BRAUN. It happens. It happens one-third of the time. I have had 600 inmates that we have employed in these three companies in Leavenworth. One hundred of them left because they didn't obey the prison rules. If it was a coed prison, somebody got pregnant in a coed prison, and all of a sudden your sheer worker was gone the next morning. He bounced out of the program. Or someone told the guard, I don't like what you are doing, or someone did something back in the prison in the evening and that guy is bounced out of the program.

That is the risk of having a prison program. And yet you have to buy into that if it is going to be fair, for the prison system. They have got to be able to take away those privileges, the privilege of work, the privilege of being responsible. And this is part of the turnover; this is inherent in these programs.

Mr. MOORHEAD. I wanted to ask you about the recommendations that were made by Neal Miller. He said prison inmates should be assessed for their skills levels and personal amenability to the working environment. And that, secondly, industry should arrange for job development specialists to help release the inmates obtaining employment. Do you think that this——

Mr. BRAUN. Well, no. I think that is a question of money, frankly. If a guy works for me and learns the skills, he will be in demand when he gets out.

The real test for what skills you have is the marketplace itself. When a guy works for me and learns to weld and so on and so forth, when he gets out of jail, we call X, Y, Z Co., in western Kansas and we say, we have a welder who can weld so many inches a minute on quarter-inch plate and that guy is moving to your area.

We don't say here is an inmate getting out of jail and here is his skills profile. If people have skills, they are in demand wherever they are. You don't need training programs and all kinds of extra kinds of special stuff spent on that sort of thing. I don't think. If a guy has good learning—if he has learned them at the company, the private sector is the best trainer of people.

Training money needs to be given to the private sector to train people in their own factories. If they do that, you have got good employees when they move to the next place, and the next place, and the next place. And that is our theory in the deal.

So all of this skills assessment, that is a big corporate way of doing business, most of these companies are going to be little, small, entrepreneurial kinds of companies that are willing to take these risks with inmates.

Mr. MOORHEAD. Wouldn't you agree with that assessment?

Mr. CIKINS. I was thinking as this discussion was going on about folks who get a liberal arts education in college and then they get out of college and they get a job, do we do a skills assessment? What do they know—what did I know when I had a bachelor's degree with a wide range of social science topics?

So clearly, several things happen. Either you get some training from your employer, or you learn on the job. But what you learned, presumably what you have gotten and what this type of effort provides is a work ethic, an understanding of the process, learning how to gain a skill, whatever that skill might be, and then the abil-

ity to translate that in other directions. So the fact that the specific skill you may have learned in this particular operation may not be needed somewhere else, you have already gotten an outlook about how to get a skill and are trainable and know a work ethic.

Mr. MOORHEAD. Do you believe that this program should be adaptable to the Federal prisons?

Mr. CIKINS. Which program are you talking about? You mean the PIE program?

Mr. MOORHEAD. Yes, the PIE program.

Mr. CIKINS. Well, that is a tough question. My basic attitude about that is that there are ways of applying some of it. I would think maybe in some parallel way. I think one has to be very careful about attempting to put together at the Federal level a set of conditions that were designed for the State level.

What I am saying is that the Percy amendment was originally designed for States. I would say that what would possibly be wiser for this subcommittee would be to structure something analogous to PIE, to be parallel to PIE, that fits the more unique needs of the Federal Government. I think something similar to PIE, but structured more toward the Federal Government.

Mr. MOORHEAD. We won't put that down quite at the 5149 model. Thank you very much.

Mr. CIKINS. Maybe we will go a little bit further on that one.

Mr. HUGHES. I might say in response to your question about not needing a specialist, somebody to identify job opportunities on the outside, it sounds like you do that job.

Mr. BRAUN. I do that. I call up.

Mr. HUGHES. How many employers would do that?

Mr. BRAUN. Most employers will do that if they buy into this program.

Mr. HUGHES. I see.

Mr. BRAUN. They will do that.

Mr. HUGHES. If they are as committed, as you are.

The gentleman from Florida.

Mr. MCCOLLUM. I must say it is a fascinating panel. It is nice to have Mr. Cikins here whom I have known for a long time. He must be fascinated to listen to you, too, Mr. Braun, as I am.

I have a comment and a question. What you have done is marvelous in terms of the accuracy and the detail and the dedication and the results. I think you, yourself, though, have indicated that the only way you can do this, I think you said, is in small gulps. And what we need is to learn, it seems to me, from what you have done, how to make this happen in ways where we swallow whole oceans.

We have thousands of prisoners and we are going to have thousands more, and somehow we have to find a way to take those good things that you have developed in this, which you have given us an outline on, and the problems you have identified, and break down the barriers that are there to private industry being able to really get in there and help us solve the problem.

Now, let me track a couple of those, because I have been listening to you very carefully, and see if you, and I can share some of this together. You indicated that at the one company it took 18 months of time and effort to—an employee had to be there that

long, a prisoner, to get him to break even and start making a profit for the company, if you will, and 12 months for the other one, and it is going to vary. This was based upon paying a certain wage rate. If it was—whether it is the prevailing wage or a minimum wage, if you lowered the wages, didn't have to pay as high a wage, would you not then be able to have less time? The 18 months or the 12 months wouldn't matter, you would have a break even earlier with that employee, whoever it was. In other words, there is a ratio here, there is a scale here where wages actually do come into play in some cases; do they not?

Mr. BRAUN. No. No, I think the—what you are saying, would the whole curve be dropped if you were paying a lower wage?

Mr. MCCOLLUM. Yes. Would there be a greater incentive for the private businessman to be in there because he is worried about all of the problems you described to us of the prisoner being in his employ; he is worried about all of those features—you gave quite a litany here, and I respect them, I have heard them before.

Mr. BRAUN. That private businessman still has to go home at night and go to parties and go to church with other private business people. He still has to be able to look them in the eye and say, what we are doing here is fair. And, clearly, if the cost of having the inmate, plus what the inmate is paid is equal to what the prevailing or what the wage would be for a noninmate person, then I consider that to be—then that is fairness.

Mr. MCCOLLUM. Well, I am working with you on this. I am making you go through this. I am thinking in terms of the business I mentioned to Ms. Hawk earlier that you made the initial comment. You said you liked the idea of pricing the product and rather than worrying about the wage—let's say we go out and we find a pricing mechanism, nobody has done that yet, but we can sell the product competitively and we are then fair in the open marketplace to business. We really are being—we can be fair to the inmate regardless of the wage as long as that inmate is learning skills. The wage that he or she is receiving inside the prison is not as important in the fairness scheme as the outside world's perception of all of this. Fairness to unions, fairness to business.

So if you are looking at it from a businessman's perspective, let's say a larger industry that right now is saying, no, I don't want to get involved with that, you have to find a way to say to that industry, if you come in here, you are going to be able to get labor that is less expensive for you, but you are going to be able to make—you are still going to be able to do as good a job in making your products, even with the difficulties of prison labor, because it is less expensive. That is the incentive. Why are you coming in here? The businessman's viewpoint, not as dedicated as you are to the public cause. So it seems to me that there has got to be the incentive there.

And then on the other hand you have to be able to have the product out there that is priced at a fair price. I don't know what other mechanism there is, but that is where I was headed with my thinking.

Mr. BRAUN. At one point there was a tax incentive in that—there was a training—I forget the——

Mr. MCCOLLUM. Sort of a job training type deal?

Mr. BRAUN. In 1986 when the tax laws were changed, the advantage to a corporate, a small corporation from a tax standpoint was to have this targeted jobs tax credit.

Targeted jobs tax credits used to be a way of rewarding a small manufacturing company for hiring inmates or low-income people and so on and so forth. But in 1986—and you could apply them directly against the profit—I mean it was very—it was very attractive for a profitable company, it was a very attractive way to save Federal taxes. In 1986, the Federal tax law essentially assessed the alternative minimum taxes on corporations in addition to individuals. So corporate taxes had to be looked at both ways, and the targeted jobs tax credits were real by the benefits——

Mr. MCCOLLUM. So what we are saying here is one incentive system could be a tax scheme.

Mr. BRAUN. There is no question.

Mr. MCCOLLUM. That is one possibility.

Mr. BRAUN. Or a share of the market as job set-asides of the Federal or whatever it might be. So that instead of a minority-owned business, a prison industry business, a PIE company would be given a fair share or the chance to bid second, or be the low bidder.

Mr. MCCOLLUM. Some priority.

Mr. BRAUN. Or whatever it might be.

Mr. MCCOLLUM. So some priority in Federal contracting bidding.

Mr. BRAUN. That is correct.

The third alternative is to make financing available. Equity financing available, debt financing available to entrepreneurs who will tackle these extra problems, and that is what I have concluded is the best way to do it. And so it is conceivable that venture capital companies that might be set up, or that might—that put money in these kinds of deals might be given some financial benefits.

Mr. MCCOLLUM. All of those three are good ideas, but all of them do involve the Government in some way.

Mr. BRAUN. That is correct.

Mr. MCCOLLUM. And involve the taxpayers underwriting in some way.

Mr. BRAUN. That is correct.

Mr. MCCOLLUM. Is there not a way to break through that mold of government doing it and get each further into the private area? Because I am thinking the gross scope of this is so big, when you start looking at the tax amount that we would be involved with, the number of prisoners we want to do this with, the incentives would have to be very, very large in terms of the taxpayer cost.

If you could do it with the outside pricing mechanism that I have suggested, and I know you haven't had a chance to think through, but where the business would find no resistance out there, as a public policy matter would find no resistance, would you not then be able to provide the incentive to the business through the lower cost employee and still not harm society in any way, and therefore, perhaps do everything Mr. Hughes wants to do and I want to do in terms of getting the prison industries in such a way that they might even be making a profit?

Mr. BRAUN. I don't know how this pricing mechanism would work, I mean in the marketplace. In other words, is it everybody—is it on a bid basis? I don't understand how——

Mr. MCCOLLUM. Let me suggest to you that this needs further exploration, and I don't pretend to have the bottom line answer. Mr. Cikins and I have talked about this in the past, and I have suggested that we might need to have some study on this, something has come of it. But my thinking, purely the abstract thinker, is that you could base it using the Department of Commerce figures some kind of a transactions base for every product that you are involved with, so you would know what the average mean price was over the past 6 months or so, or the past year, whatever your measuring time would be in a given region or area of the country where these products are being sold, assuming you are producing products that other people are also selling, and it would be a floating thing so that over a given period of time you would not be allowed, with a prison-made product, to price your product beyond a certain range that is consistent with the norm that is then established by the marketplace.

Mr. BRAUN. People are concerned that you are going to price too low, not too high.

Mr. MCCOLLUM. Right, that is correct. That is why I say you have to have the marketplace figures available, and then find some kind of a sliding scale that is adjusted regularly to let you—to make sure you weren't pricing it the wrong way in terms of hurting the general market by underpricing the goods.

And it seems to me that with all of the data that are available, we have through the industry commerce today, the Government collects and goes to waste in a warehouse somewhere, somebody has got to be able to find the mechanism to apply that data, and it wouldn't be too difficult to do.

Now, I could be all wrong. Maybe because you have the interest. I just keep throwing things like this out that you could help us unlock that key.

Mr. BRAUN. I would be glad to comment. Remember, the fear is that the Federal Government is going to charge, or whoever is in this, that they are going to charge substantially less than everyone else.

Mr. MCCOLLUM. That is right. I agree.

Mr. BRAUN. How do you force them to come in with a high price?

Mr. MCCOLLUM. They can't charge less than a certain amount that is based upon whatever this mean market price is for this good over a given period of time on an average, maybe it is a shorter period. I use 6 months. That is arbitrary. I am only throwing that out as a construct, not as in final product.

Well, I just wanted to trigger the thought process, Mr. Chairman. To me, it has always been a bungadoo to try to go the minimum wage route or the prevailing wage route, and I think that if we are going to be able to get anywhere with a large number of prisoners I think we can expand marginally what is being done.

I think there are tremendous sessions for improvement. We can adopt the PIE standards and we can adopt some incentives to increase the participation. But I think we are talking about doing it for a few hundred or hundreds more prisoners.

What we need to do is find a construct that will allow us to expand this program for thousands of prisoners and prisoners who

may not be able to be in the pipeline for the 18 or the 24 months even that you need them to make your system work. That is all.

Thank you, Mr. Chairman.

Mr. CIKINS. Mr. Chairman, if I might add one more comment on that. What Mr. McCollum is suggesting has another merit, which is that so much of where we end up depends on ranking each other element in the equation, whether we are paying minimum wage or prevailing wage or all that kind of consideration that is very, almost insoluble. So what we need is a whole new conceptual way to look at how we are carrying out this effort without it focusing on those types of controversial dimensions.

In your State of Florida, clearly I know full well, as you do, how incendiary, if I can use that word, this type of issue is. So we need a new approach and we have already been alluding to that here and in other discussions about ways of getting products priced.

You are exactly right on that approach, if there is a way we can find to do it conceptually, and I take my hat off to you for at least making that effort. It would ease a lot of tension on the whole problem.

Mr. MCCOLLUM. Well, thank you, Warren.

Mr. HUGHES. I know you have a flight to catch at 2 o'clock, and I may have some additional questions which I would like to pose, and if you could, we would like to have your responses in about 10 days, if you would do that for us.

I think this has been a very, very productive panel for us and we are indebted to you, Mr. Braun, for coming such a distance to share your own personal experiences and also your commitment to this very, very difficult problem. And to you, Warren, who have worked in this area for so many years, and we appreciate your leadership, and it points up, I think, one thing that we do need, and that is to take a look at the whole structural underpinning of the present system, and that is the point I think a number of us made with the Director. We need to look at a lot of things.

We have heard, you know, these other makeshift types of suggestions in the past, but we need to take a look at whether or not we can't make the system work a little better, and I think the suggestion about looking at the fairness issue and going from there is going to be a big part of solving, you know, our problems.

Until recently, it wasn't much of a problem. All of a sudden, with the tremendous influx of inmates into our systems, it is presenting a serious problem now, and it is going to get worse in the years ahead. So thank you. We are indebted to you.

Our final panel consists of Ann Hoffman, who is the assistant legislative director of the International Ladies' Garment Workers' Union and has held that position since 1991.

Since graduating from Barnard College in 1964, and the University of Maryland School of Law in 1972, Ms. Hoffman has represented union interests. In private practice, she handled labor and antidiscrimination cases. She served as associate general counsel of the International Ladies' Garment Workers' Union and as counsel to district one of the Communications Workers of America.

Ms. Hoffman was executive assistant to Attorney General Benjamin Civiletti from 1979 until 1981. She also has taught at Cornell University and the University of Maryland School of Law.

Our other panelist is Neal Miller, who is a principal associate at the Institute for Law and Justice, a nonprofit research company in Alexandria, VA. He has been involved with criminal justice policy issues for over 22 years.

He is a graduate of the University of Pennsylvania Law School. He worked for 10 years consulting with the U.S. Department of Labor's offender employment program.

Prison industries is one of his areas of expertise. He was involved in drafting the original proposal on State prison industries which was enacted as 18 U.S.C. 1761, subparagraph C.

Mr. Miller has conducted organizational and marketing studies of several State prison industries programs and has examined legal restrictions on prison industries for several national organizations, including the National Conference of State Legislatures and the National Association of Counties.

They are both eminently qualified to talk to us today about this most important subject.

We have both of your statements, which we have read, and we hope that you can summarize for us so we can get right to questions. And let's begin with you, Ms. Hoffman. Welcome and thank you for your patience.

STATEMENT OF ANN F. HOFFMAN, ASSISTANT LEGISLATIVE DIRECTOR, INTERNATIONAL LADIES' GARMENT WORKERS' UNION, ON BEHALF OF EVELYN DUBROW, VICE PRESIDENT AND LEGISLATIVE DIRECTOR

Ms. HOFFMAN. Thank you, Mr. Chairman, for inviting the International Ladies' Garment Workers' Union to be here and for your leadership on this issue over the years.

I would like to start with reference to your opening statement that people are entering our Federal prisons illiterate, without real skills for real jobs, and with drug problems. H.R. 703 is a well-intentioned measure, but it does not deal with any of these issues.

Members of the International Ladies' Garment Workers' Union are engaged in precisely the kind of production, in our case the manufacture of women's and children's apparel, which the bill would permit to be done by Federal prison labor.

A huge share of the kinds of products made by our members, 65 percent of domestic consumption, is, in fact, currently being produced by foreign labor. And this already large share of our domestic market is expected to increase as a result of the North American Free Trade Agreement, and if it is approved by Congress, the General Agreement on Tariffs and Trade. Our interest in this legislation is therefore obvious.

Since adoption of the U.S. Trade Act in 1930, the United States has banned the import into this country of goods made by convict or forced or indentured labor in another country. The use of convicts in the United States to displace imports from other countries is likely to be seen by other countries as hypocritical at best and more than likely as a barrier to trade under the new World Trade Organization that would be set up by the Uruguay Round.

The recent stand of the United States with regard to the use of convict labor by the People's Republic of China, which you referred to earlier, has been consistent with our longstanding position. Our

successful negotiations on that issue would have been much more problematic if we were using convict labor here to compete with the People's Republic.

To the extent that employment programs within Federal prisons are designed to train prisoners for gainful employment after incarceration, we find the manufacture of goods that would otherwise be produced by foreign labor to be a totally inappropriate training vehicle. Imports of foreign-made goods have drastically reduced domestic employment in the production of those goods. Prisoners trained to manufacture women's and children's apparel, prisoners trained to manufacture television sets, would find themselves upon release competing for work with hundreds of thousands of unemployed experienced garment workers, experienced electronic workers.

Senator Brown mentioned in his statement to not allow someone to be productive and creative robs him of self-respect. This is certainly as true of people on the outside as it is of people in prisons. And I think of two women that I saw on television a couple of years ago, former members of the ILGWU who used to work for Maidenform until Maidenform moved all of its brassiere production offshore. One was trained as a beautician, the other was trained as a clerical worker, and they spent their time doing each other's hair and writing each other's resumés for jobs that don't exist in West Virginia.

We simply can't create a new program to train people for the jobs that our members have lost, over half a million, since 1973.

Finally, the bill's provision that would permit production of only those items that would otherwise be produced by foreign labor is unenforceable. There is no way to tell whether a particular item would only be produced by foreign labor. And the fact that it is only produced by foreign labor now does not mean that it was not made by domestic labor quite recently and could not be made by domestic labor again, but for the predatory low wages that are offered by the offshore labor.

I don't think we want to create a situation; it wouldn't be fair, in which our Federal prisoners compete with the low, low wages that are available in these offshore industries.

In conclusion, I would say that labor-intensive industries in the United States, including the apparel industry and the electronic industry, have lost ground over the last 20 years to low-wage competition from abroad. They are barely able to provide decent jobs at decent wages on the outside. They will be no more capable of providing decent jobs at decent wages inside the walls of Federal prisons.

If the erosion of job opportunities in this country generally concerns this subcommittee, as we believe it does, the use of prison labor to produce competitive products for the domestic market is not the answer. And given our Nation's longstanding opposition to importing products made by prison labor, it would be equally repugnant to allow products made by prison labor domestically to enter our domestic market.

The International Ladies' Garment Workers' Union is willing to continue working with you, Mr. Chairman, with the subcommittee, and with the Bureau of Prisons to develop programs that provide

meaningful work for Federal prisoners in a way that is fair without displacing domestic labor or industry. Thank you.

Mr. HUGHES. Thank you very much.

[The prepared statement of Ms. Dubrow follows:]

PREPARED STATEMENT OF EVELYN DUBROW, VICE PRESIDENT AND LEGISLATIVE DIRECTOR, INTERNATIONAL LADIES' GARMENT WORKERS' UNION

The International Ladies' Garment Workers' Union is pleased to have the opportunity to present its views regarding H. R. 703, "The Prison Inmate Training and Rehabilitation Act of 1993". My name is Ann Hoffman. I am Assistant Legislative Director of the Union. I am speaking on behalf of Evelyn Dubrow, Vice-President and Legislative Director of the ILGWU.

The bill seeks to create a pilot program to determine the feasibility of meeting the need for increased employment of federal prisoners by producing items for the private market, in conjunction with private United States firms, that would otherwise be produced by foreign labor.

ILGWU members are engaged in precisely the kind of production -- in our case the manufacture of women's and children's apparel -- which the bill seeks to have done by Federal prison labor. A huge share of the kinds of products made by our members -- 65 percent of domestic consumption -- is, in fact, currently being produced by foreign labor. And this already large share of our

domestic market can be expected to increase as a result of the North American Free Trade Agreement and the Uruguay Round of the General Agreement on Tariffs and Trade, if approved by Congress. Our interest in the legislation is obvious.

We see the bill as a well-intentioned effort to increase employment by Federal prisoners, but we believe it presents a number of serious problems. Specifically, it is inconsistent with long-standing United States trade policy. It provides inappropriate training for post-confinement employment. And it would be difficult, if not impossible, to administer.

The bill is inconsistent with long-standing United States trade policy.

Since adoption of the U.S. Trade Act in 1930, the United States has banned the import into this country of goods made by convict or forced or indentured labor in another country. The use of convicts in the United States to compete with imports from other countries is likely to be seen by other countries as hypocritical at best and, more than likely, as an unfair trade practice.

The United States might well be challenged by other nations on the use of convict labor, under the International Labor Organization's Conventions 29 and 105 and Recommendations 35 and 136. These are the international standards on forced labor, and

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in a global economy, the United States will be judged by world standards.

The recent stand taken by the United States with regard to the use of convict labor by the People's Republic of China has been consistent with our long-standing position. Our successful negotiations on that issue would have been much more problematic if we were using convict labor here to compete with the People's Republic. And indeed China is by far the largest provider of imported apparel to the United States.

Given this history and the contemporary situation, it is difficult to justify, even on a trial basis, the use of prison labor to produce products for the U. S. market to compete with those produced by foreign labor. The United States should set the best example in the world on human rights. The use of convict labor in international trade falls far short of doing so.

<u>The bill provides inappropriate training for post-confinement employment.</u>

To the extent that employment programs within federal prisons are designed to train prisoners for gainful employment after incarceration, we find the manufacture of goods that would otherwise be produced by foreign labor to be a totally inappropriate training vehicle. Imports of foreign-made goods

have drastically reduced domestic employment in the production of those goods. Prisoners trained to manufacture women's and children's apparel, for example, would find themselves upon release competing for work with hundreds of thousands of unemployed garment workers, who have lost their jobs as a result of imports.

Apparel employment in the United States reached its high-water mark in 1973, when the industry employed 1,257,400 production workers, according to the Bureau of Labor Statistics. By 1993, the industry production worker work force was down to about 800,000 workers, a loss of almost half a million jobs in just twenty years.

Unemployment in the United States apparel industry remains high. The industry average in 1993 was 50 percent higher than the overall national unemployment rate, according to BLS data. In short, training a federal prison inmate in the manufacture of apparel is training him or her for future unemployment.

The same is likely to be true for the manufacture of other items that would otherwise be produced by foreign labor. The companies that import and sell foreign-made goods into the United States do so because foreign labor is considerably lower in cost than domestic labor. In countries producing apparel for export to the United States, wage rates range from 2 percent to 25 percent of

domestic wage rates.

Foreign labor is attractive to these firms because it is highly profitable. Were this not the case, as one of our nation's leading apparel importers once told me, he would not import.

Neither altruism nor a desire to assist the Federal Prison Industries would induce domestic firms to participate in the kind of projects envisioned in H.R. 703. Only if the labor costs were no higher than in apparel-exporting nations would importers like the one I mentioned be interested in participating in the kind of venture proposed in the bill. Such wage levels in the United States would be tantamount to slave labor.

<u>The bill would be difficult, if not impossible, to administer.</u>

The bill would permit production of only those items that would otherwise be produced by foreign labor. Presumably the goal of the sponsors is to avoid displacing domestic labor or industry. This admirable standard will be difficult, if not impossible, to meet.

Experience has shown that programs that were supposedly aimed in part at shifting apparel imports from one part of the world to another have not worked as projected. For example, we were told when the Caribbean Basin Initiative was announced that apparel

imports from the CBI would replace those from Asia. What has happened in fact is that apparel imports from CBI have added to, not replaced, imports from Asia.

Furthermore, there is not a fixed level of domestic apparel production in this country, nor of any other product. U.S.-based companies can manufacture products for sale in the United States either in this country or in a foreign country. Foreign producers may do the same. Companies may shift their production from the United States, or manufacture the same product both here and abroad. Additionally, a retailer may purchase goods where it chooses -- either within the United States or abroad. The mix of domestic and imported products of any type, made by any producer and sold by any retailer may vary drastically from year to year.

Under these circumstances, it would be impossible to determine whether a particular product selected for manufacture within a federal prison would otherwise have been produced by foreign labor.

Conclusion.

Labor-intensive industries in the United States, including the apparel industry, have lost ground over the last twenty years to low-wage competition from abroad. They are barely able to

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provide decent jobs at decent wages "on the outside." They will be no more capable of providing decent jobs at decent wages inside the walls of federal prisons. Having prison labor produce apparel and other products for sale in the domestic market would only lead to further decline in domestic employment.

If the erosion of job opportunities in this country generally concerns this Subcommittee, as we believe it does, the use of prison labor to produce competitive products for the domestic market is not the answer. And, given our nation's long-standing opposition to importing products made by prison labor, it would be equally repugnant to allow products made by prison, labor to enter our domestic market.

Mr. HUGHES. Mr. Miller, welcome.

STATEMENT OF NEAL MILLER, PRINCIPAL ASSOCIATE, INSTITUTE FOR LAW AND JUSTICE

Mr. MILLER. H.R. 703 is based upon the view that prison industries work provides important training for inmates and will reduce future recidivism. The greater the number of inmates who participate in prison industries, the greater its impact.

The legislation tries to diffuse opposition to prison industries as a competitive part of business by focusing its efforts at products that are made by overseas labor that are not in competition with domestic manufacturers.

I applaud the legislation's purposes. I believe that the legislation, however, has serious flaws. Most importantly, tried and true alternatives to the legislation exist that have greater promise to provide inmate employment and reduce recidivism and that have fewer faults.

H.R. 703 conditions Federal Prison Industries sales to the private sector upon its certifying goods both as labor intensive and as replacing goods not made in the United States. H.R. 703 does not specify what criteria will be used by FPI to make certification decisions, what information will be used, or where that information will come from.

The legislative language "otherwise be produced" in H.R. 703 is overly vague. For example, it can mean that FPI certification could be based upon selling to an importer who states in turn that without FPI sales, the importer would purchase the same goods from an overseas exporter. I draw that example from the discussions found in the Brookings summit on FPI that was made available to me, I think, last year.

One reads carefully between the lines of what people were saying. This is, I think, one of the underlying assumptions of the supporters of this legislation. If you follow that through, the exporter can, and probably will, sell these goods to another importer, so we haven't really cut our domestic imports or cut out overseas production.

More importantly, this scenario says nothing about the possibility of domestic competition. FPI authority should be conditioned upon the absence of any domestic competition for the product in question. The problem is that the necessary data about import penetration of the domestic market are not available. Hence, FPI will have to develop alternative data sources each time it considers a new product.

But H.R. 703 also exempts the pilot projects from the existing mechanism to gather data about domestic competition, and this is section 4122(b)(4), title 18. There is an interesting question that arises whether the Administrative Procedure Act applies to FPI. There is no caseload directly on point and nobody seems to know the answer to that one.

Second, it is not clear how practical the proposal is. I would like to see the FPI preliminary analyses that the Director this morning referred to. I have not seen them. I don't know if you have.

Our experience with State prison industries indicates that raw material costs are often higher than the final product costs are in the retail store in the United States for overseas imports.

We did some work for the State of Virginia looking at work gloves. There is a big market within the State for State workers for work gloves. The production costs were about $2.50. I am sorry, the final cost was $2.50 on the retail market. And the raw material costs were higher than that. That may not be true if one were producing televisions, but anything that has to do with the ILGWU I am sure will find the same problem.

Another problem is the wages that are paid overseas. It seems to me that however low the wages are today that are paid by Federal Prison Industries, they are not lower than those paid overseas. I don't see how FPI could institute lower wages to inmates working in these industries, while other FPI workers are making 23 cents an hour, or whatever it is. I wouldn't want to be the warden in that facility when that one went in.

The politics of this proposal are also troubling. The assumption that making goods made overseas will deflect private sector criticism is naive.

Leaving aside the unions, experience with State prison industries suggests that the proposal will result in complaints from wholesalers, retailers and now with this legislation, importers. Organized labor has rarely been an enemy of prison industries in the States; there are other people who are. Not the manufacturers so much as the wholesalers and retailers and importers, which would now be added.

In place of this legislation, I would have FPI join the private sector prison industry's enhancement program, which allows State prison industries and private firms employing inmate labor to sell their products in interstate commerce.

Criticism of this program uses misleading statistics. I refer here to the Deloitte & Touche study, that also fails to take into account the many advantages that the Bureau has for potential private business partners.

This program, most importantly, provides for organized labor involvement. To me, this is a critical factor one looks to, because it can help an inmate gain decent employment.

Again, my experience with the States shows that organized labor has been a major supporter of work programs for inmates and helping them find jobs on the outside. We need merely look at the State of Maryland right next door to see an example of that.

This morning there was some discussion on the prevailing wage issue, which is a part of the requirement for certification under the PIE program. The examples in Kansas suggest that a training wage or subminimal wage may be necessary, but is not part of the existing legislation.

Even without such a change, we have about 1,500 inmates employed by private sector companies, or by State prison industries who sell to private sector companies under the PIE program. There may be other alternatives in addition to a training wage or subminimal wage that could be looked at by this committee at some other hearings. It is not the time today to talk about that.

One of the things that Fred Braun mentioned in passing, which may not have been noted, is the fact that his shops mix free world workers and inmate workers. As far as I know, he is the only one to do that, but he has been doing it for 15 years, and I think it is a wonderful idea. I can't think of a better way to diffuse private sector fears about what is being done.

There is also some mention about the Bureau this morning, about the costs of a minimum wage to FPI. It seems to me that this is an accounting problem. FPI pays for training of the inmates that are not directly related to Federal Prison Industries' work. If money is returned to the Treasury from paying the taxes or room and board charges, this will not go to FPI.

I can understand why they have to make a profit on moneys paid out. They would be concerned about not putting out more moneys regardless of the effect upon the overall impact on the Federal coffers. Nonetheless, that is simply an accounting problem, not a real problem.

Inmate post-reemployment is of critical importance. The committee should use this opportunity to examine how FPI skill training is used by released inmates. I am pleased to hear some of the questions that were asked about this comment earlier.

Mr. Braun commented about job placement not being necessary when he does it. I think he ignores the fact that FPI is a national organization. They are not located in Kansas, and there is another shop in the next county over. Inmates who are released from Federal prisons are sent all over the country.

About 15 years ago, I visited the Army facility in Leavenworth and of course it served more than the Army, as you know. A Navy captain there, who was assigned there to post-release employment responsibilities, had developed a referral listing for every place in the United States where inmates leaving Leavenworth could go to. He did not have the luxury of being able to find the plant where this guy was could use the training that he received in whatever programs that were in Leavenworth.

I think that is pretty much comparable to the Federal system as well, that they need to have some way to reach across the Nation. The use today of Federal probation to do that is not effective, and I think they would be the first to tell you so.

In Maryland, again, using Maryland as an example, State Use Industries has a full-time job developer. His success in placing released inmates in good jobs has reduced recidivism to a remarkable degree. Close to zero.

When I first began to work with prison industries issues, post release employment problems were dealt with through programs funded by the Department of Labor. This cross agency cooperation died with enactment of the Jobs Training Partnership Act. Counsel here can tell you some of the stories about this CETA program and how the legislation got into that law dealing with offenders. I would like to see something like that revived again.

But in its absence, it is incumbent upon prison industries, State, FPI, to plug the gap. If they do not do this, their ability to accomplish the most important function of prison industries, which is to reduce recidivism, is undercut. If they don't have jobs when they are released, all of the training in the world is irrelevant.

Thank you, Mr. Chairman, for this opportunity to express my views. If there are any questions, I will be happy to answer them.

Mr. HUGHES. Well, thank you very much, Mr. Miller.

[The prepared statement of Mr. Miller follows:]

PREPARED STATEMENT OF NEAL MILLER, PRINCIPAL ASSOCIATE, INSTITUTE FOR LAW AND JUSTICE

Comments on Expanded Federal Prison Industries Authorities: Replacing Overseas Manufactured Goods

Good morning, Mr. Chairman. My name is Neal Miller and I am a principle associate with the Institute for Law and Justice (a nonprofit research organization). I am very pleased to testify this morning on a proposal to authorize the Federal Prison Industries to make and sell goods in the private sector. I have been working on prison industries policy issues for over 20 years and have published nearly two-dozen reports, articles, and books on this topic. A short biographical sketch is attached to this testimony, along with a listing of my most significant related publications. The thoughts expressed today are my own and do not necessarily represent the official position of the Institute for Law and Justice or any other organization.

The Legislative Proposal

H.R. 703 and the H.R. 4092 amendment, both introduced by Representative Wolf, would authorize Federal Prison Industries (FPI) to produce and sell goods in the private market where these goods would otherwise be produced by foreign labor. FPI would be required to certify that the products produced are labor-intensive, replace goods otherwise produced by offshore labor, and do not increase domestic competition. Section (b) of this proposal, as most recently revised, would authorize FPI to sell recycled materials to the private sector.

Underlying Assumptions

The title of the proposed legislation indicates that Representative Wolf believes that inmates' participation in prison industries increases their skills and employability after release and ultimately reduces the likelihood of their recidivism. I completely agree with this assumption. I note, however, that prison industries programs do not always succeed in increasing skill levels, especially where the prison industries programs operate in inefficient

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and non-business-like manners. Nor is prison industries work sufficient by itself. It is these two caveats that underlie my testimony today.

Critique

My objections to Part (a) of this proposed legislation involve some underlying conceptual issues, procedural questions about how FPI will make its determinations, concerns about the availability of needed data, doubts about the practicality of the new power, and concerns about its potential for adversely affecting state prison industries. Even more importantly, this proposal diverts attention from what really needs to be done. I will not comment on Part (b) involving recycled materials, since this is a specialized industry with which I have insufficient familiarity to judge the proposal's practicality. One caveat to these must be noted: I have not seen how FPI plans to implement the legislation, if approved by Congress. Some, but not all, of my concerns can be addressed by administrative actions.

Conceptual Concerns

The theory underlying this proposal is simple. If FPI can make goods that are produced by overseas workers and sell them to the private sector, it can expand the number of inmates it employs, the U.S. trade deficit will be reduced, and no American workers or companies will be adversely affected. The economic views underlying this theory are likewise simple. Unfortunately, they are too simple. Implicit in this is a view of the world economy as a static model. *Goods not produced today in the United States will never be made here again.* But experience shows us that this view is incorrect. As technology improves, the importance of labor costs diminishes. Work done overseas thus often returns to the U.S. shores.

Certification Concerns

The legislation provides no mechanism for FPI to use in certifying goods as made by offshore labor. It is unclear how this could be done both procedurally and substantively.

1. **Decisional Definition and Criteria.** The information needed to make the statutory certification would have to be appropriately defined and be weighed and judged per relevant criteria. The legislation sets two undefined criteria: goods produced will replace imported goods and no increase in domestic competition. It is unclear how this will operate. The first criterion, replacing imported goods, could be met by FPI selling its products to importers; however, this would not prevent the offshores exporter from selling to another importer. Nor does this interpretation of the certification requirement criteria address the possibility of domestic manufacturer competition. The purpose of the certification

requirement, to prevent unfair competition, would not be met by limiting the scope of inquiry in this way.

We will have to look at more inclusive (i.e., industry-wide) data about a specific type or category of goods, rather than a single shipment or series of shipments. In looking at industry-wide data, the question becomes about the level of import penetration required. For example, would there be a *de minimus* rule permitting FPI to produce goods that are made by only a handful of manufacturers with a limited market, or would the Act call for a rule analogous to the Delaney rule that bars any food ingredients that are carcinogenic to any degree? That is, would the existence of even one small domestic competitor within a product category bar FPI from certifying a product as being produced by overseas labor? The 1993 report of a Brookings Institution sponsored Summit on Federal Prison Industries indicates that many, if not most, participants opposed a rule that would require that *no* producer be affected. But if a *de minimus* rule is accepted, two other problems then present themselves.

2. **Fungibility Problems**. A further problem in defining the relevant product category is suggested by analogy to antitrust law, elasticity of demand—or put another way, fungibility of goods. For example, if Saran Wrap were only made overseas by low paid Asian workers, permitting FPI to manufacture a similar product and sell it more cheaply to the private sector could affect the sale of related products such as aluminum foil. If certification is going to take fungibility into account, FPI will need to employ economic researchers to make determinations on this and related issues. Alternatively, some other mechanism could be used, as for example, contracting with economic analysts at other federal agencies such as the Federal Trade Commission, Small Business Administration, or the Department of Commerce.

3. **Need for Empirical Basis.** FPI certification that no domestic competition exists for a specific product must rest on some sort of empirical basis. The question arises as to what this base consists of and how (or from whom) the necessary data is collected.

The most important concern with this proposal is that the data needed for this decision are simply not there. Information about specific products is not available. The American Correctional Association's 1989 concept paper putting forth a similar proposal identified *categories* of goods which the U.S. Department of Commerce had designated as having import penetration ratios of over 25 percent. The categories with the highest penetration values were footwear (.940), fine earthenware food utensils (.935), jewelers' materials/lapidary work (.921), and dolls and stuffed toy animals (.837). Clearly, there is some limited manufacture in each of these categories in the United States. Within each category we must then identify subcategories or even specific products that are made only overseas. But how does one distinguish between the goods made overseas and domestically?

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If we were to use price as a proxy for overseas manufacture, how do we know that price is a valid proxy? If not, on what other informational basis could FPI certify goods as not being made in the United States. It is this problem, in part, that probably lead many of the 1993 Summit conferees to oppose a strict certification standard.

An alternative approach would be to ask potential FPI competitors whether they manufacture specific products in the United States. Title 18 U.S.C. § 4122(b)(4) includes detailed requirements before FPI may produce new products. However, the proposed legislation would make this requirement not applicable to the pilot projects. I believe that some modified version of this provision is needed to ensure that FPI is not making it up. To the extent that the existing provisions of Section 4122(b)(4) are not even directed at the specific problem of certifying goods as made overseas, the legislation should directly rectify the omission or make it clear that the Administrative Procedures Act (APA) is applicable. This might provide that notice of FPI's intent must be published in the *Federal Register*. This would reach associations representing manufacturers, who would then notify their constituents. One might also want publication in the *Commerce Business Daily* to better reach businesses that may be affected by FPI action. One advantage of directly applying the APA to the certification process is that it would ensure that the substantial evidence test is the one used to resolve appeals of the FPI decision by aggrieved businesses or labor. To be honest, my research indicates that the question of whether FPI is in the class of government corporations to which the APA already applies is as yet unanswered.

The suggestion put forth by a FPI Summit working group report that FPI rely on certifications by its private company partners is one that ignores possible conflicts of interest. To the extent that this proposal assumes that certification occurs in the context of FPI selling to an importing firm, it also assumes that certification is a limited exercise at best. As discussed above, I disagree with this approach to certification.

Practicality Concerns

Leaving aside these legal quibbles, the question remains whether production of goods by FPI can compete with foreign imports. What evidence I have seen says no. For example, the Department of Corrections in one state wanted to produce work gloves that could compete with gloves imported from Asia. We found that the cost of the leather and other raw materials used in making these gloves was higher than the cost of the imported gloves. This simple cost comparison did not take into account the likelihood of related costs such as raw material waste due to the inexperience of the inmate workers with glove manufacture. I would be very interested to see the feasibility analyses that FPI is reported (1993 Summit report) to have done on this issue.

Another concern is the ability of FPI staff to sell goods in the private sector. Assuming that FPI products would not be greatly underpriced, how would FPI staff, who may have limited private sector marketing experience, sell to private companies? Several states use sales agents to market their goods or pay sales commissions to state employees under special authorizing laws. FPI may need to consider both options.

A final practicality point is that of the wages to be paid inmate workers. Implicit in this proposal is the position that inmate wages now paid by the FPI would not change. I note however that the 1991 Deloitte and Touche study of FPI marketing needs in its recommendations to permit production of goods made overseas seems to imply that inmate workers would be paid the prevailing wages paid to overseas workers. That is only logical, since the wage differential is the primary reason for exporting work. But, it is very likely that the overseas prevailing wages are lower than the gratuity paid federal prisoners working in FPI. I cannot see FPI reducing inmate wages in shops competing with overseas labor, while other FPI shops continue at their present wage scale. The converse problem of FPI producing goods that are made overseas by high-paid labor, but which is not made in the United States, is dealt with by requiring FPI to certify that goods are labor intensive. This is a critical safeguard to preventing exploitation of inmate workers.

Political Concerns

In any case, the idea that FPI production of goods made overseas will not affect American companies and workers is naive. The fact is that opposition to state prison industries comes most often from retail firms wanting to sell to state government when their private customer market shrinks. FPI sales of goods otherwise made overseas to the private sector will, in fact, affect importers, distributors, and retail firms. All of these firms will be able to legitimately claim that FPI provides unfair competition, because it does not pay its workers a fair wage.

The 1993 Summit responded to this argument by suggesting that FPI production would stimulate other parts of the economy, including raw material and transportation providers. This secondary effect would balance any job loss otherwise caused. The Institute for Law and Justice has done work in New York state that supports this view, finding that the number of jobs created in the public and private sectors outweighed the number of jobs lost through state prison industries sales to the state-use market. The proposed legislation does not require any such similar analysis. Nor is it clear that state-level studies may be extrapolated to the federal level.

Other political problems arise when we start identifying specific products for FPI to make. For example, the Deloitte and Touche study for FPI suggested that it make textile

products that are made overseas. If FPI did this, we might well expect the Garment Workers Union to run television ads about unfair prison labor, much as they now run ads asking us to "Buy American," while noting the loss of domestic jobs to foreign imports. The potential adverse consequences to FPI from such a campaign can not be overestimated.

Effect on the States

Assuming that the proposals of H.R. 703 and H.R. 4096 were economically and administratively feasible, there is the problem of unintended side-effects upon the state prison industries programs. The past twenty years has seen a striking increase in a business-like approach to operating state prison industries. Under legislation enacted by Congress in 1978 (18 U.S.C. § 1761(c)), private businesses are allowed to sell goods made by inmates to private sector buyers. This authority is subject to several conditions that are intended to ensure that the prison industries do not constitute unfair competition with private business and labor. Those states that have been certified by the Department of Justice under this Prison Industries Enhancement (PIE) program have had remarkable success in employing inmates and reducing recidivism. Even industries operations not included in the certification program have been upgraded and their provision of real world skills to inmates increased significantly, as a consequence of the PIE program's espousal of private business principles of operation. The business model for prison industries has become the dominant model throughout the nation with only one or two states maintaining the historical use of inmate labor as unpaid workers. For example, twenty-nine states have laws permitting private businesses to operate on prison grounds or otherwise use inmate labor. These businesses provide state-run industries with first hand experience in business expertise and approaches.

HR 703 and its successor H.R. 4096 could threaten all that has been gained. If it were to even temporarily succeed on any scale, it would present an alternative model for prison industries. Unfortunately, this would, in some ways, resemble same model that was repudiated by Congress in 1929, 1935, and 1940. As suggested above, the economics of competing with offshore labor will require FPI paying virtually no wages at all. While this is allowed under the 13th Amendment, it is hardly wise penology. Further, it would undercut the importance of private business as a model for development of prison industries policies and practices. Evaluations of prison industries before business-like practices became the norm showed that its skills training was virtually useless and had no effect upon recidivism. While inmates were theoretically not "idle," the truth was that featherbedding practices created a new form of structured idleness that had no effect upon incarcerated inmates' training, inmate morale or institutional violence—much less release success.

Diverts Attention

No matter, this proposal is of limited feasibility. What it will do is detract attention from what is really needed. It is tempting at this point to note that increased inmate employment is a function of the number of inmates held in the prison. The new crime legislation may well reduce the number of non-violent offenders in the prisons, reducing the need for increasing the number of inmates in FPI. The real need, however, is not to increase the number of inmates employed; this can be accomplished by simply returning to the practice of featherbedding unneeded workers. Rather it is to improve the effectiveness and efficiency of FPI. Maybe if we do a better job with what we are doing to provide real-world training for inmates, increased inmate employment will be a serendipitous side-effect of that effort. What should we do in lieu of this legislation?

The PIE Alternative

The private industries certification program established under 18 U.S.C. § 1761(c) was originally drafted to apply to the Bureau of Prisons (BOP). The then director of the BOP did not want this authority and it was redrafted to apply to state prison industries. There is no inherent reason why this program could not apply to FPI. If Congress wants to expand the number of inmates employed by FPI, legislation making the PIE program applicable to FPI is the most effective alternative available.

The objections to FPI joining PIE raised by the Deloitte and Touche study are not well founded. In brief, this study concluded that the PIE program is not successful because only one percent of inmates in the PIE states worked in the program. This report failed to note that less than 10 percent of all state inmates worked in prison industries of any kind. Thus, the report statistics indicate that PIE increased the number of inmates in prison industries by over 10 percent. A ten percent increase is not insignificant, especially where the capital costs for that increase were not paid by the states. Instead, the capital costs for this expansion have been paid by private industry; a conservative estimate of these costs is between $12.5 and $20 million. I believe that there may be additional savings to the state taxpayers from reduced need for security staff in both state and business-run prison industries. However, no study has been undertaken to verify this. Of course, these savings are important only where governmental budgets are tight and short term concerns predominate over issues such as return on investment. I also note that the state costs of supervising and providing alternative programs to inmates not placed in an industries program can conservatively be estimated at $5000/inmate annually. This would amount to another $6.5 to $10 million in additional savings in operating costs.

Nor is it correct for the Deloitte and Touche study to generalize from national averages based on state performance to the federal level. In many ways, the federal prisons can be much more attractive to private business interest in the PIE program than are state correctional facilities. Federal prisoners are better educated and have more extensive work experience than do prisoners in most state systems. The wardens and other correctional administrators are similarly better trained and staffed to deal with the changes that accompany introduction of a PIE program. Further, states like Washington that have administratively and operationally integrated PIE program industries with state-run industries have had much greater success than other states with the PIE program. Other states with PIE program participation at higher than average levels are Nevada and South Carolina.

Problems with PIE

The PIE program is not a panacea. As presently constituted, it will never employ more than a small fraction of prison inmates. One obvious constraint is the requirement for payment of the prevailing wage to inmates working in PIE businesses or industries. Congressman's Wolf's proposal is one way of avoiding the prevailing wage requirement outside of the PIE program structure. But there may be other ways of working within the PIE program to ameliorate the prevailing wage requirement without unfair competition occurring. This is an issue the Subcommittee may wish to examine in the future.

PIE Successes

On the other hand, the PIE program is an undoubted success in stimulating state prison industries to adopt business-like practices and correctional administrators to modify prior policies and procedures that acted to limit business-like industries. Examples of the latter effect include changes in the hours when training and education programs are available to inmate workers to evenings—much like it is in the real world. Other important innovations relating to the PIE program's links to organized labor include increased numbers of inmate workers enrolled in apprenticeship programs that provide credentials of skill level when the inmate is released and seeks legitimate work. There is also much anecdotal reporting of private companies hiring released inmates to work in their facilities and plants at other locations. Obviously, state-run prison industries can not offer this type of outcome.

Improving PIE Programs

One immediate objective of prison industries that implicitly underlies this legislation is to improve inmate employability upon release. This can be done by increased jobs skills, by training in the world-of-work, and by increased job placements. One often missing

element in PIE (and other prison industries, including FPI) is an operational link between prison-based skills training and outside employment. There are two things that PIE programs can do, and which FPI should be encouraged (or even mandated) to do. First, prison industries "graduates" should be assessed for their skills level and personal amenability to the work environment (e.g., ability to accept supervision or get along with co-workers). This information should be collected on a systematic basis and provided by job developers to prospective employers. In essence, prison industries should be able to "certify" (or credential inmates) to employers that former inmate-workers can be a productive addition to their workforce. Employers actively seek credentialing training sources, because they can reduce employer costs in finding new employees.

The corollary recommendation is for industries to arrange for a job development specialist to help released inmates obtain employment—using the industries certification. In Maryland, the State Use Industries pays for a job developer out of its "profits." Not only are the former inmates more likely to be placed in a job, the jobs are better paying and there is significant increase in job retention. Recidivism results are highly encouraging, although there has been no federal interest in rigorous evaluation, as there should be. In other states, the state Employment Service has assigned a staff person to work, at least, part time placing inmates with prison industries experience. This latter alternative is not available to FPI, however, because its population is national in scope.

Summary

I applaud Congressman's Wolf's interest in expanding work opportunities for inmates in the federal prison system. Properly administered, prison industries programs are the most effective correctional program for reduced recidivism. They are also the least costly for the taxpayer. The danger is that they can become too successful. Unbridled and *unfair* competition with private business and labor has in the past, and will in the future, provoke legislative restrictions. The PIE program has sought to improve existing industries' competitiveness and scope, while avoiding legal restrictions by eliminating the objections of affected businesses over unfair competition. By encouraging private businesses to establish plants on prison grounds, government bureaucracies are minimized and the American commitment to free trade restated. Federal Prison Industries should be authorized to adopt the PIE program concept.

There is more that government can do. FPI has been a leader in linking prison industries, education, and vocational training. A number of states such as Ohio have sought to emulate or even exceed what FPI and the BOP have done. In other states such as Maryland, financial cutbacks have resulted in virtual dismemberment of integrated

programming. Although this may be beyond the scope of today's hearing, federal leadership is required in improving skills training and education programs in the states' correctional systems. Twenty years ago, the U.S. Department of Labor estimated that over 200 million dollars were spent through the Comprehensive Employment and Training Act (CETA) on offender training and employment assistance. In 1978, CETA was amended to further encourage such programs. The Jobs Training Partnership Act (JTPA) eliminated correctional programming as a national priority. Nonetheless, individual Private Industry Councils (PICs) under JTPA continue to support programs in prisons and in community corrections centers. How much of this occurs is totally unknown. If there are model programs for other jurisdictions to emulate, there is no mechanism for this to occur. Department of Labor criteria for rating PICs continue to penalize programs serving this population. From the perspective of FPI, there is no means by which its efforts can be coordinated with local PICs or even with state employment service agencies.

Returning to the immediate topic of today's hearing, H.R. 703 and H.R. 4092, it is premature to act on its proposals. The doubts that I have expressed today may be resolved by more information, but I do not see how this can be easily gained. For example, I would like to explore such issues as whether there are viable alternatives to the prevailing wage requirement established by 18 U.S.C. § 1761(c). (I note that the national Compact for Fair Competition for the Prison Industries Reorganization Administration signed by President Roosevelt in 1934 under the National Recovery Act permitted state prison industries to sell in the private sector where industries paid the then prevailing wage less a differential for reduced inmate productivity.) I would also like information about what products might be selected for FPI production so that an independent analysis can be done of the likely impact on competitors and FPI itself.

I again thank you for this opportunity to express my views. I hope they have been of assistance to you and your colleagues. I will be happy to respond to any questions you may have today or at a latter time.

Mr. HUGHES. Isn't it true that all of the countries in the European Union have inmate programs with inmates engaged in prison industries which are run by prison administration are actually employed by private enterprise?

Mr. MILLER. Yes, that is correct. And we in fact do import goods from the European nations that are made by inmates.

Mr. HUGHES. Does that present a problem that you are aware of?

Mr. MILLER It has not presented a problem overseas.

Mr. HUGHES. How about in this country?

Mr. MILLER. Most of the problems that occur in this country are obviously complaints about unfair competition.

Mr. HUGHES. Yes, but we are importing every day.

Mr. MILLER. Yes.

Mr. HUGHES. Which is made by our European allies, in many instances are made by prison labor.

Mr. MILLER. Nobody knows about it. In fact, they are part of the national economies of these overseas countries. Sweden, for example. There is a recent report that was done by the Canadian prison industry looking at what was being done in European nations, which looks at a number of relevant questions on that. This report suggests that there are no problems here from what they are doing, even though it affects us.

Mr. HUGHES. How about the ILGWU. Does that give them any concerns?

Ms. HOFFMAN. Frankly, we were not aware of that, and I can't see—I would have to look into it.

Mr. HUGHES. See, because it gets harder. One of the arguments that the ILGWU makes, and I don't really understand it for this reason, the ILGWU is a member of an international convention that has been in force since about 1932, and the convention specifically exempts prison labor from its definition. Article 2 states that the definition shall not include, and I read right from the convention, "any work or service exacted from any person as a consequence of a conviction in a court of law provided that the said work or service is carried out under the supervision and control of a public authority and that said person is not hired to or placed at the disposal of private individuals, companies or associations."

Ms. HOFFMAN. Right. I think it is the latter part that causes the problem, if indeed it is private industry that is getting the advantage of the prison labor, then it is not exempt from the definition of forced or indentured labor under the convention.

Mr. HUGHES. Has the international convention reviewed that in light of changing circumstances? I mean, that was back in 1932.

Ms. HOFFMAN. The only updates have been with respect to specific development programs, not generally with respect to the change in circumstances. I might add that the United States has not subscribed to Convention Number 29.

Mr. HUGHES. You would agree that the voluntary programs we have in our system, UNICOR, for instance, are much different than the slave labor that exists in the People's Republic of China. That is a true form of slave labor where there is no alternative. But the UNICOR system is a voluntary system. People clamor to get into the system.

Ms. HOFFMAN. I would hate to see us in negotiations getting into a comparison of——

Mr. HUGHES. We are not in negotiations.

Ms. HOFFMAN. No, I know. But I mean with—I think that is—you know, yes, it is a voluntary program. It is a limited program now. I think if we begin to eliminate the barrier to interstate commerce, bring private industry into the system more, other than in the way that Mr. Braun is doing, then I think we create whole other problems that you yourself have raised in the course of this morning's hearing.

Mr. HUGHES. Well, I was with Evy Dubrow last evening and I inquired about the ILGWU, and labor generally. I mean, I think the ILGWU is one of the finest labor organizations I have ever had the pleasure of working with.

At one time I had a garment industry in my district and lost most of that. They were wonderful people. And we lost much of that industry because of unfair competition. So I am very sensitive to the concerns of organized labor in this area generally.

But by the same token, the ILGWU has always been the leader in social conscience in this country, and I suspect, although you are better prepared to address it than I could, I suspect that no matter what we did, if in fact we developed a fair competitive wage pricing of our goods, we would still have complaints from the ILGWU; isn't that so?

Ms. HOFFMAN. Well, we have worked with the AFL–CIO, with the Bureau of Prisons, and we are prepared to continue to do so, to come up with programs that——

Mr. HUGHES. But my point is we have never come to grips with what is a real serious problem. And the ILGWU hasn't either. I mean, even after years and years of discussion, and that is the fact that even if we priced the goods competitively, paid a fair wage, we would still have complaints.

Ms. HOFFMAN. But I think Mr. Braun's point, that if we do this bit by bit, if we do this sensibly, if we do this sensitively to the private sector, we can minimize the complaints.

Now, we have had complaints with the PIE program and Mr. Zalusky of the AFL–CIO mentioned these last year when he testified before the subcommittee, because the requirements in the provision are not enforced and no State program has ever been decertified.

Mr. Zalusky gave me correspondence he just received this month through the South Carolina Bureau of Prisons. They are about to put in a program manufacturing children's sleep wear at minimum wage. That does not comply with Percy, there has been no contact with the unions in the area.

I can guarantee you that there are unemployed garment workers in the area of the South Carolina prisons, some of whom probably worked on children's sleep wear.

I think if we put programs in and we enforce them and they are fair programs, you won't have legitimate complaints from us. But I think we have to look at the situation of workers in this country today. If you add discouraged workers and you add workers who are working part-time who would rather be working full-time—we have got 15½ million unemployed people in this country. And I

think we really have to be sensitive to them at the same time we try and solve the problem for the Bureau of Prisons. And I think we are willing to participate in reasonable efforts to do that. But I don't think this bill, competing with offshore production, is the answer.

Mr. HUGHES. Yes, well, it is not offshore production. It is just not offshore production. The primary concern is that we develop a fair and reasonable manner of competition, whether it be offshore or whether it be here.

Ms. HOFFMAN. That is correct.

Mr. HUGHES. Because I think you make a very valid point. You know, basically the market changes, the global marketplace. How do you determine what is offshore and therefore having little impact upon American workers.

By the same token, what is basically a market we have lost today may not be the market that is lost tomorrow, because it is fluid, and hopefully we can make the kind of structural changes, become competitive, eliminate the unfair trading practices that we see that have led in many instances to the loss of so many jobs in the garment industry, for instance. Not just the garment industry, across the board. So it is not really whether it is imports we are worried about, it is having a fair and level playing field, is what you are saying.

Ms. HOFFMAN. That is correct.

Mr. HUGHES. Does organized labor agree that there should be actual work experience for inmates in the system?

Ms. HOFFMAN. Yes.

Mr. HUGHES. There is no question about that?

Ms. HOFFMAN. No question about that.

Mr. HUGHES. And we need to provide marketable skills. It is not enough just to provide work for them, it is skills that they can utilize when they leave prison.

Ms. HOFFMAN. Absolutely.

Mr. HUGHES. Mr. Miller, you suggested FPI should simply enter the PIE program as opposed to the pilot program that is suggested in this particular legislation. Why do you think, if you know, the Federal prison system has not really looked at that? Why was this not included originally?

Mr. MILLER. They were. They refused it. In 1972——

Mr. HUGHES. Do you know the reason for that? What was the reason given?

Mr. MILLER. Well, Norm Carlson didn't want to do it. He was the Director. He didn't have to explain.

There were two bills in fact introduced by Senator Percy over time to have a pilot project for the Federal Prison Industries.

Mr. HUGHES. But your feeling is we should take another look at it, much along the lines that were suggested by the other panel?

Mr. MILLER. Yes, I see no reason why we shouldn't.

Mr. HUGHES. And modified by Mr. Cikins who said obviously we have different problems, different concerns, Federal as compared to the States. You have to custom tailor it to our needs.

Mr. MILLER. One of the purposes of the PIE program in my mind was to force corrections to do—to make changes that they didn't want to do. In 1972, we were not far removed from digging up bod-

ies in Arkansas, if you remember. And much of State corrections was then beginning to be placed under Federal court review. But if a State corrections department has to meet a bottom line in prison industries, it is going to change the way it does business.

You will not have call-outs at whim, you will not have discipline at whim. If one looks today and sees the way prisons and prison industries are run, they are far different than they were 20 years ago, and I think those sorts of changes in some part haven't occurred in the Bureau of Prisons, that there is still a certain correctional mentality.

A few years ago we were visiting North Carolina which has one of the better prison programs in the United States, and we met with the commissioner and then the warden at the central facility in Raleigh. The word went down from on top: you will do prison industries, and they did it, and they did it very well. They fired a couple of wardens to do that. Some of those wardens' mentality still exists I think in the Federal system, although by and large they are a very professional group.

I don't think the administrative problems from putting a PIE program in would adversely affect the Bureau of Prisons. I think it might help it in many respects, at least in its overall mission of reducing recidivism which is in part what it is all about.

Mr. HUGHES. Let me just say before I close, I may have some questions which I would like to direct to you and ask you if you would respond within 10 days so that we can save some time.

I work with Norm Carlson on a whole host of issues. He was a very fine Director of the Bureau of Prisons.

Mr. MILLER. He did a remarkable job there.

Mr. HUGHES. Yes, he really did. I have worked over the years with prison systems. Our own in New Jersey I worked with. I worked for 10 years with the system in New Jersey when I was in law enforcement myself. But I must say, I am very, very proud of the way the Federal system is run. It is a model for States to follow. I just regret that we cannot make available the drug detox programs to those that need it, provide the skills to those that need it. It is shameful that we have a waiting list of inmates at the Federal system that want to get into the UNICOR program; They're probably qualified, but they can't do it. And so, you know, when I talk about the Federal system, I always brag about the system, because I have seen the State system, and I think the Federal Government has done a very good job in this area. It doesn't mean it is perfect. I happen to think that they need to take another look at prison industry and the UNICOR program, as I have made it very clear today. But I think overall they have really done a tremendous job.

Thank you very much. We appreciate you joining us. You have really made some great contributions, and we look forward to working with you as we have to come to some closure on this. We need to sit down and work out something that is going to work for all of us. Thanks.

Mr. MILLER. Thank you.

Ms. HOFFMAN. Thank you.

Mr. HUGHES. That concludes the hearing for today. The subcommittee stands adjourned.

[Whereupon, at 1:20 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

APPENDIXES

APPENDIX 1.—JUSTICE FELLOWSHIP STATEMENT ON H.R. 703, SUBMITTED BY ROBERTO RIVERA, DIRECTOR, RESEARCH AND DEVELOPMENT, JUSTICE FELLOWSHIP, MAY 13, 1994

JUSTICE FELLOWSHIP SUPPORTS H.R. 703 AND URGES ITS PASSAGE

Justice Fellowship strongly urges the passage of H.R. 703. One of Justice Fellowship's most important goals is promoting meaningful work in prison. The second part of this statement will set forth why Justice Fellowship considers this to be one of its primary goals.

INCREASED EMPLOYMENT

H.R. 703 affords the Federal Prison Industries an opportunity to discover new markets for its products. These new markets, in turn, create jobs for inmates in federal prisons. Because it targets goods that would otherwise be produced by foreign labor, the additional employment for federal prisoners does not come at the cost of increased unemployment among the general population.

The bill also has the virtue of prudence. It starts small, establishing pilot programs. In addition to discerning whether a market exist for prison made substitutes for foreign goods, the pilot programs afford Federal Prison Industries a chance to discover any unintended consequences. These consequences can then be addressed before large scale implementation of the program.

All of this assumes that prison industry is a good thing. Justice Fellowship would like to take this opportunity to set forth why it considers meaningful work in prisons to be so important.

RESTORING THE WORK ETHIC

As a starting point, we would like to consider the following quote from the July 7, 1986 issue of the New Republic:

> "The point is to enforce the work ethic. This is a long-term cultural offensive, not a budget control program or an expression of compassion. The sharpness and simplicity of its choices—no cash welfare for the able bodies, no exceptions for parenthood—are its main virtue, because they embody with unmistakable clarity the social norms that are in danger of disappearing in the underclass culture . . . Welfare doesn't work. Work 'incentives' don't work. Training doesn't work. Work 'requirements' don't work. 'Work experience' doesn't work, and even workfare doesn't work. Only work works."

What does the development of an alternative to the current welfare system have to do with prison industries? A great deal. Those who make up the "underclass" and many men and women in prison are products of the same subculture. This subculture lacks a work ethic and the values associated with a work ethic—the connection between effort and reward, the value of postponing gratification, and other evidence of a long-term perspective.

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As with the underclass, a principal task in dealing with offenders is to provide an alternative to the culture that breeds dependency in some people and antisocial behavior in others. Reinforcing the work ethic is central to this effort.

Reinforcing the Work Ethic

Meaningful work in prison and the work ethic it fosters are perfectly consistent with what Justice Fellowship calls restorative justice—the biblically based response to crime that seeks to repair the harms caused by crime. This "repair" is possible only if offenders are held accountable not only for their crimes against the state but also for the harm inflicted on their victims.

Our correctional system often makes this accountability difficult, if not impossible. An incarcerated offender has few opportunities to earn the kind of money necessary to compensate his victim. Our prisons "put people behind walls and bars and do little or nothing to change them . . ."[1] They are little more than warehouses for criminals, where idleness is the rule.

But the harm caused to the victim is not the only harm that goes unaddressed. The community has an interest in restoring the peace that was broken by the offender's actions. It also has an interest in ensuring that the offender, upon release, is prepared to become a productive member of the community. With more than 63 percent of ex-prisoners returning to a life of crime within three years of their release from prison,[2] the community's needs are going unaddressed.

As an alternative to warehouses of convicted criminals, former Chief Justice Warren Burger proposed "building factories with fences around them—where inmates, after training, engage in useful production . . . " He asked, "Do we want prisoners to return to society as predators or producers?" For prisoners to become producers, he argued, they must know how to work.

JUSTICE FELLOWSHIP'S PRINCIPLES FOR RESTORATIVE PRISON INDUSTRY

Not all prison labor is created equal. Working in the prison laundry for no compensation is not the same as operating machine tools at a market wage. While any work is better than no work at all, to take full advantage of the restorative potential of work, prison industries must adhere to certain principles. Prison industries must foster:

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[1] Warren Burger, quoted in "Sullivan's Sermon: Responsibility," *Washington Post*, March 13, 1991.

[2] Bureau of Justice Statistics, *Recidivism of Prisoners Released in 1983*, April 1989.

- Training in the work ethic
- The payment of restitution
- The development of a productive work force
- Well-managed correctional institutions through reducing costs and idleness

Essential to "restorative work" is the payment of restitution. Restitution provides an important financial and symbolic connection between the offender and the victim. Prison industries that foster restitution encourage inmates to take constructive steps to help those they have harmed, as well as themselves. Justice Fellowship's emphasis on the development of a productive work force includes more than on-the-job training so that inmates can do their work. It also includes a commitment to helping inmates become productive citizens once they are released.

BENEFITS OF PRISON INDUSTRY

There are four parties affected by crime. The offender, who commits the crime; the victim and the community, who must live with the results of crime; and the government, which must deter and punish crime. Prison industries are especially appealing because they provide tangible benefits to each of these parties.

OFFENDERS

Offenders receive many benefits from having a meaningful job in prison. They gain a way to spend their time productively and to develop work habits and marketable skills. Inmates learn to exist within the "culture of work." There are alarm clocks to set, appointments to keep, and bosses to please.[3] This is in stark contrast to the "culture of dependency" promoted in most of our nation's prisons.

For prison industries to foster training in the work ethic, the work must involve some form of compensation. Compensation motivates workers to perform better and indicates that the work has value. Compensation helps train workers to postpone gratification by connecting what is done "now" with a future reward. Compensation also allows prisoners to support their families and repay their victims.

VICTIMS

The victim's primary interest in prison industries is restitution. If offenders are able to work for decent wages, they have an opportunity to make financial and symbolic amends to their victims. Of course inmates receiving market wages for their work are better able to fulfill restitution requirements.

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[3] Mickey Kaus. "The Work Ethic State." *The New Republic*. July 7, 1986.

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MAKING VICTIMS WHOLE

The potential for restitution is ultimately dependent upon whether or not the court has ordered restitution in the case of a given offender. In those cases where the court has done so, prison industries should be required to provide some mechanism for the payment of restitution.

A possible result of developing mandatory restitution mechanisms is that the courts will be more willing to order restitution. Judges are often reluctant to order offenders to pay restitution because they often do not have the means to pay while incarcerated.

COMMUNITY

The development of a productive prison work force benefits the community in many ways. First of all, the community gains the contribution in products or services that inmate workers provide. The community also gains when inmates pay family support while incarcerated so that the burden for supporting inmates' families does not rest completely with the taxpayers.

At the very least, prison industries should be *required* to develop productive workers. This includes equipping inmates for outside employment, because most inmates will be released from prison one day.

Another potential benefit prison industries could give to the community is the provision of a flexible, entry-level work force. Many U.S. companies are having increasing difficulty finding entry-level workers. As the need for entry-level workers expands beyond the pool of prospective employees, this need may become the driving force behind the expansion of prison industries.

GOVERNMENT

MAKING PRISONS MANAGEABLE

The government—correctional institutions in particular—benefits from prison industries through reduced costs. Inmates pay taxes on their earnings and often must contribute a portion of their earnings to the state for room and board. Prison industries reduce the idleness of employed inmates, which makes institutions easier to manage.

Prison industries should be *required* to employ as many inmates as possible so that the benefits to offenders, victims, the community, and the government will be as extensive as possible. Justice Fellowship prefers that prison industries employ every employable inmate because the intrinsic value of work should not be limited to a small percentage of inmates.

MARKET WAGES AND FAIR COMPETITION

Based on the principle that prison industries should foster training in the work ethic, prison industries should be *required* to compensate inmates for their labor. Our *preference* would be that inmates be paid market wages.

Justice Fellowship believes that there are several good reasons for paying market wages. First, market wages provide adequate income so that prisoners can pay restitution, family support, fines, and some incarceration costs to the state. Second, paying market wages forces prison industries to operate under the same standards and pressures of other businesses. This is the type of training inmates need to survive once they are released. Third, because private-sector businesses are required to pay market wages to their employees, they often oppose, on the basis of unfair competition, prison industries that do not pay comparable wages. If all prison industries paid wages comparable to those outside the prison, then prison industries would become a competitor on the same footing as other companies.

There are examples of prison industries succeeding while paying inmates market wages, such as Best Western and TWA using prisoners as phone reservationists. By operating according to private-sector standards and benefits, prison industries will attract the interest of companies and increase the likelihood that the number of inmates employed will grow rapidly.

However, Justice Fellowship recognizes that competition between prison industries and private-sector businesses is a complex issue. While payment of market wages to inmates benefits the employee and puts the prison industry on an equal footing with other companies, the costs of doing business in prison are often higher than outside the prison walls. Prison industries must cope with a very high turnover rate, the interruptions of prison regimen and inspections during the business day, and, in the case of state-use industries, a limited market for prison-made goods. Therefore, flexibility in defining what constitutes a "market wage" is necessary.

An example of this flexibility is the approach to market wages taken by UNICOR. UNICOR's aim is to employ federal inmates in jobs that have been or would be lost to overseas workers. UNICOR argues that, though the wages it pays are less than U.S. market wages, their wages are market wages in comparison with the overseas workers with whom they are competing. Though the definition of market wages may vary with the circumstances, the value of paying prisoners a real wage for real work has proven merit.

CONCLUSION

Meaningful work in prison benefits all of the parties—the offender, the victim, the community and the government. It is important to the process of repairing the injuries caused by crime. H.R. 703 is an important step in expanding prison industry. We urge its passage.

APPENDIX 2.—ACTIVE PROJECTS WITH OTHER FEDERAL AGENCIES IN ACCORDANCE WITH TITLE 18 U.S.C., § 4125(a), SUBMITTED BY THE BUREAU OF PRISONS, U.S. DEPARTMENT OF JUSTICE

FACILITY	PROJECT	STATUS	# EMPLOYED
Ashland	Wayne National Forest	Signed	4
Big Spring	Veteran's Affairs	Signed	6
	US Department of Agriculture	Signed	3
	National Guard	Signed	2
Boron	Bureau of Land Management	Signed	5
	Edwards Air Force Base	Signed	70
	Marine Corps Logistics Base	Signed	10
Bryan	Sam Houston National Forest	Signed	11[illegible]
	U.S. Army Corps of Engineers	Signed	10
Butner	V.A. Medical Center	Signed	10
	National Guard Armory	Signed	3
Dublin	Alcatraz N.P.S.	Signed	7
	Maritime N.P.S.	Signed	3
	Muir House, N.P.S.	Signed	3
	Oneill House, N.P.S.	Signed	3
Duluth	Superior National Forest	Signed	1
	Minnesota Air National Guard	Signed	1[illegible]
El Paso	Chamizal National Memorial (NPS)	Signed	3
El Reno	Agricultural Research Service	Signed	6
Englewood	Logan National Cemetery	Signed	3
Jesup	Glynco	Signed	8
	Fort Stewart	Signed	15
La Tuna	Border Patrol	Signed	3
Leavenworth	VA Cemetery	Signed	4
	VA Hospital	Signed	5
Lompoc	Vandenberg Air Force Base		15
Loretto	Allegheny Portage Rrd. NPS	Signed	4
Manchester	Daniel Boone National Forest	Signed	1

McKean	Allegheny National Forest	Signed	18
Morgantown	Camp Dawson	Signed	17
Petersburg	Ft. Lee	Signed	10
Phoenix	Tonto National Forest	Signed	7
Schuylkill	VA Medical Center	Signed	8
Sheridan	Siuslaw National Forest	Signed	19
Talladega	Talladega National Forest	Signed	2
	Fort McClellan, U.S. Army	Signed	22
Texarkana	Red River Army Depot	Signed	12
Three Rivers	San Antonio Missions, N.P.S.	Signed	10
Yankton	U.S. Army Corps of Engineers	Signed	8
			501

URBAN WORK CAMP MONTHLY REPORT
FEBRUARY, 1994

PROJECT	# PARTICIPANTS (M/F)	TOTAL
Fairchild AFB, Spokane, WA.	8M/ 4F	12
Fort McHenry, Baltimore, MD.	5M/ 2F	7
Defense Personnel Support CTR, Phila., PA.	25M/ 0F	25
Navy Aviation Supply Center, Phila., PA.	0M/16F	16
Veterans Hospital, Dallas, TX.	12M/10F	22
Kelly AFB, San Antonio, TX.	22M/ 5F	27
Fitzsimon AFB Medical Center, Aurora, CO.	10M/ 4F	14
Pike San Isabel National Forest, CO.	11M/ 3F	14
Naval Air Station, San Diego, CA.	9M/ 7F	16
Ocala National Forest, Umatilla, FL.	5M/ 1F	6
	107M/52F	159

APPENDIX 3.—EXCERPT FROM AN INDEPENDENT MARKET STUDY OF UNICOR FEDERAL PRISON INDUSTRIES, INC., A REPORT TO CONGRESS ON STUDY FINDINGS AND RECOMMENDATIONS, CONDUCTED BY DELOITTE & TOUCHE, AUGUST 1991

b. FPI should focus on managing inmates in these production activities.

Engaging in labor-intensive subcontracting operations would allow FPI to employ a maximum number of inmates in a production capacity while minimizing FPI's market share. Non-inmate related costs such as product design, marketing, and procurement would also be minimized, as would the need for FPI to broker kit and pass-through items. Light manufacturing activities provide FPI with better opportunities to allocate work loads across facilities in which inmate employment is required. This strategy also lessens FPI's need to obtain materials through the federal procurement process and also to employ a diversified civilian staff.

FPI's involvement only in this set of activities for these types of products should allow FPI to cost-effectively provide light manufacturing as a subcontractor to multiple private sector contractors. FPI's inmate wages would be set to allow FPI to perform these activities without increasing the cost of the end product to the federal government. Incremental costs of shipping fabricated components and sub-assemblies to FPI factories will be offset be the lower direct labor cost for inmate labor. Focusing only on those manufacturing activities performed by inmate production workers will also allow FPI's production management staff to increase their efficiency. Similar to the traditional industries, FPI should focus on a smaller number of product lines that provide the needed inmate employment.

Under the proposed strategy, Federal customers would benefit from private sector innovation in product design and customer service, a larger set of product choices, and price competition between multiple suppliers. FPI's ability to meet federal agency design specifications for these products would no longer be an issue. Since more than 70 percent of the total product price reflects costs of private sector provided manufacturing and ancillary services, federal agencies stand to benefit by having multiple companies competing to provide the product.

3. <u>Producing Products with U.S. Businesses that Would Otherwise be Produced Offshore for the Non-Government Market</u>

This element of the recommended approach would redirect FPI's future growth to markets and functions that are not served by domestic businesses and labor. Much of the concern

expressed by private sector businesses and labor regarding FPI's expansion or entry into labor-intensive industries arises from the fact that U.S. firms producing these products have been heavily impacted by competition from imports. Several recent proposals for changes to FPI's legislation have included specific provisions that would bar FPI from manufacturing products that are considered to be "import-sensitive" based on the volume of imports in relation to total domestic consumption.

a. *FPI forms partnerships with U.S. firms to produce items that would otherwise be purchased from non-U.S. sources for the non-government market.*

U.S. firms in electronics, and apparel and textile products industries are among those most impacted by competition from products produced in countries with low wage rates. In spite of tariffs and other trade barriers, countries with production labor rates that are much lower than wages paid to U.S. production workers have been able to provide products manufactured in a labor-intensive fashion at a lower cost than U.S. firms. Trends toward offshore production of these types of products are an inevitable outcome in a global economy. As a result of these trends, remaining U.S. producers have become more dependent on the federal procurement market, the one U.S. market that is most protected from imports.

FPI has demonstrated capabilities to produce these products, for the federal government. However, increasing FPI's sales of these items will reduce the size of the market remaining for U.S. businesses and labor. In contrast, redirecting FPI's production capabilities to produce these items for U.S. firms outside of the federal marketplace will allow FPI's expansion to offset non-U.S. production.

b. *FPI should concentrate on products which are most similar to current FPI products and can be produced in the same types of factories.*

The volume of electronic assemblies and fabricated textile products currently imported or manufactured in offshore plants is large enough that FPI could conceivably meet its inmate employment requirements in two or three product lines. This approach should be used as a means for FPI to meet its inmate employment mission without adversely impacting domestic businesses and production workers. The potential benefits of this approach extend beyond providing FPI with a means to meet its inmate employment requirements without impacting on U.S. businesses and

labor. Concentration on a few manufacturing operations will minimize the amount of civilian staff and capital equipment required to support the inmate work force.

Returning the production of these items to factories located within the U.S. could increase the market for U.S. firms that supply materials and components (e.g., electrical connectors, industrial fabrics) consumed by these manufacturing operations. It is probable that new jobs will be created because of the need for additional FPI civilian positions to manage production planning and factory-level production activities. Further, these would not represent transfers of jobs from the U.S. private sector to the U.S. public sector.

FPI's involvement in these teaming arrangements should be limited to cases where the activities would not otherwise be performed by domestic sources. In order for these arrangements to provide incentives for U.S. firms to utilize FPI, FPI will have to be a cost-effective provider relative to offshore sources. FPI's relative cost effectiveness will be based of its low direct inmate labor costs, lower shipping costs attributable to FPI's domestic location, and other efficiencies associated with FPI being a source closer to the end market than non-U.S. sources. FPI will also have to change its throughput management and quality assurance practices to provide a reliable source for its private sector partners.

4. Increasing Sales of Services to the Federal Government

FPI has provided printing and binding services to federal government agencies since the late 1930s. FPI has also provided other services, including data entry and equipment repair services for more than 15 years. However, sales of printing and other services to the federal government have represented a small part of FPI's total revenues. FPI currently has less than three percent of estimated federal agency printing procurements, and less than one percent of federal procurements of data entry and vehicle and equipment repair and maintenance services. FPI's total sales of services have not increased significantly, in spite of the fact that federal procurements are shifting from products to services.

FPI's enabling legislation has been interpreted to mean that FPI does not have a preference in federal procurements of services. Recently, this interpretation was confirmed in revisions to the FAR. Other programs, namely the Committee for Purchase From the Blind and Other Severely Handicapped have a mandatory preference in specified services.

Exhibit E-2, ITA List of Imported Products with No Comparable U.S. Products on January 3, 1985*

HTS Subheading	Description
0305.59.20	Shark Fins
0510.00.00	Human Hair
0502.10.00	Pigs, Hogs, Boars Bristles
0505.90.00	Other--Skins of Birds
0510.00.20	Ambergris, castoreum, civet & musk (animal parts for pharmac prods)
0709.90.10	Chayote (Sechium edule)--Vegetable
0710.90.10	Mixtures of pea pods & water chestnuts
0712.90.15	Un-Ripe Olives
0803.00.40	Dried Plantains (form of Bananna)
0807.10.50	Ogen & Galia Melons
0811.90.25	Cashewapples,mameyas colorados, sapodillas, soursops & sweetsops
0908.20.20	Ground bombay or wild mace
1207.91.00	Poppy Seeds
1211.90.60	Tonka Beans
1302.12.00	Vegetable saps & extracts of licorice
1401.20.40	Willows & othr vetgetable materials used primarily for plaiting
1504.30.00	Marine Mammal Fats & Oils
1515.30.20	Castor oil & its fractions: Crude oil
1515.50.00	Sesame oil & its fractions
1602.50.10	Prepared or preserved Corned Beef
1904.90.00	Prepared foods obtained by the swelling or roasting of cereals or cereal products: other grains
2001.90.10	Capers in containers holding > 3.4kg
2001.90.42	Chestnuts
2001.90.33	Nopalitos
2001.90.50	Walnuts
2005.90.87	Nopalitos (prepared or preserved other than by vinegar or acetic acid))
2008.30.54	Mandarins
2008.91.00	Palm Hearts
2008.99.63	Sweet Ginger
2008.99.65	Yucca
2208.20.10	Pisto & singani spirits made by distillation of grape wine of brandy
2208.90.12	Slivovitz brandy in containers < 4 liters.
2208.90.14	Slivovitz brandy in containers > 4 liters.
2208.90.55	Tequila in containers > 4 Liters
2208.90.72	Mescal in containers < 4 liters
2306.60.00	Oilcake & other solid residues of palm nuts or kernals

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Exhibit E-2, ITA List of Imported Products with No Comparable U.S. Products on January 3, 1985*

HTS Subheading	Description
2402.20.10	Cigarettes containing cloves
2402.20.90	Other cigarettes
2504.10.10	Natural chrystalline flake graphits
2805.22.10	Strontium
2912.30.50	Other Aldehyde alcohols
2912.50.00	Cyclic polymers of Aldehydes
2918.13.10	Potassium Antimony Tartrate
2918.13.20	Potassium bitartrate
2918.23.10	Phenyl salicylate
2922.29.23	D-hydroxyphenylglycine & salts
2924.29.42	5-Bromoacetyl2-salicylamide
2933.51.10	Malonylurea
3301.29.10	Essential oils of eucalyptus
3301.29.20	Essential oils of orris
3806.20.00	Salts of rosin or resin acids
3808.10.10	fly ribbon catchers
3926.20.20	Baseball & oftball gloves & mits
3926.90.70	Other clothespins
4206.10.30	catgut imported for use in surgical sutures
4601.20.20	Rattan webbing
4602.10.11	Baskets & Bags made of bamboo
4602.10.13	Baskets & bags made of palm leaf
4807.91.00	Straw Paper & paperboard
4823.90.50	Hand Fans
5301.21.00	Processed Flax (not spun) broken or scutched
5701.10.13	Certified hand-loomed & folklore products
5702.10.10	Certified hand-loomed & folklore products
5805.00.20	Certified hand-loomed & folklore products made of wool or fine animal
5904.10.00	Linoleum
6304.99.10	Certified hand-loomed & folklore products made of wool or fine animal Wall-hangings
6304.99.40	Certified hand-loomed & folklore products made of wool or fine animal Pillow Covers
6402.20.00	Footwear with upper straps or thongs assembled to the sole assembled to the sole by means of plugs
6502.00.60	Hat Shapes, plaited or made by assembling strips of any material, no brims or lining: Bleached or colored

Exhibit E-2, ITA List of Imported Products with No Comparable U.S. Products on January 3, 1985*

HTS Subheading	Description
6703.00.30	Human Hair
6802.91.30	Alabaster
6812.50.50	Clothing, headgear & access., other
7004.10.10	Glass, drawn & blown with absorbant or reflecting layer
7004.10.50	Other colored or tinted glass
7004.90.50	Drawn or blown glass in sheets: other
7006.00.20	Glass drawn or blown & not containing wire netting & not surface groun
7013.10.10	Highly specified kitchenware
7016.10.00	Glass cubes with & without backing for decorative puroses
7103.10.40	Other precious & semi preciou stones (other than diamonds)
7103.99.50	Other Rubies, sapphires & emeralds
7104.10.00	Piezo-electric quartz
7104.90.10	ISynthetic or reconstructed precious or semi-precious stones cut but no
7116.20.20	Articles of semipresious stones
7215.90.50	Bars & Rods of iron or non-alloy steel
7615.20.00	Sanitary table/kitchen ware and parts thereof
8446.21.00	Power Looms
8447.20.10	Flat knitting machines, stitch-bonding machines: V-bed flat knitting m
8447.20.60	Other knitting or stitch bonding machines
8448.51.10	Latch needles for knitting machines
8452.10.00	Household sewing machines
8525.20.15	Transmission apparatus incorp. receiving apparatus other than hand-h
8714.93.10	Parts & accessories of vehicles: 3-speed hubs
8714.93.60	Multiple free-wheel sprockets
8714.94.25	Coaster brakes designed for single-speed bikes
8714.94.40	Coaster brakes designed for 3-speed bikes
9105.99.10	Standard marine chronometers
9202.90.20	Guitars not >$100 (excluding case)
9502.10.60	Dolls capable ofmovement by a microprocessor or cassette tape
9502.99.10	Other doll parts & accessories
9617.00.40	Vacuum vessels having a capacity exceeding 2 Liters
9405.91.10	Glass globes and shades of lead crystal

*HTS Subheadings for which no like or directly competitive article was produced in the United States on January 3, 1985

Source: Harmonized Tariff Schedule of the United States, 1991, US International Trade Commission

APPENDIX 4.—EXCERPT FROM 1993 SUMMIT ON FEDERAL PRISON INDUSTRIES, JUNE 1992–JULY 1993

GROWTH OPPORTUNITIES

If authorized by Congress, FPI will enter into partnerships with the private sector to attempt to repatriate certain segments of American industry by manufacturing product components and performing certain production functions which would otherwise be done by offshore labor. FPI products under this program would be sold to the American public without restriction imposed by law on the sale of items because they are produced by prison labor.

The Market Study suggests that FPI should concentrate on products most similar to its current product lines that can be produced in similar factories. The Study concludes that FPI's lower production worker labor cost in these areas should produce a significant economic benefit to U.S Companies.

The goal set by Deloitte and Touche is that FPI expand to between 4,000 and 5,000 inmates employed via the offshore strategy by 1999 and that the sales of this type should increase to comprise 15 to 20 percent of FPI's revenues by 1999.

The following product areas have been identified as potential growth opportunities for Federal Prison Industries:

ELECTRONICS

Electrical interconnection devices and chords, connectors, wiring harnesses, printed circuit cards, coil and transformer assembly, switches, wire and cable assemblies, mobile antennas, electrical components and electrical household appliances.

TEXTILES

Trousers, slacks, shorts,T-shirts, pillows, blouses, shirts, mattresses, hospital apparel, pajamas, seat belts, air bags, upholstery, seating footwear, and tents.

OTHER

Printing, data entry, medical supplies/equipment, locks, padlocks, plumbing, packaging and the sale of products to non-profit organizations (Red Cross, United Nations, Colleges & Universities etc.)

These products were considered because FPI currently produces similar products. Consequently, they are determined appropriate to produce in a prison environment.

GROWTH OPPORTUNITIES (CON'T)

A sampling of potential U.S. business partners has been contacted to assess the feasibility of implementing the offshore growth strategy. Potential partner products currently produced offshore for sale to the American public include, television assembly, electrical connectors, cables and harnesses, printed circuit boards, trousers, T-shirts, and data entry services. Several of the potential partners have indicated an interest to pursue the implementation of the offshore strategy upon the passage of legislative authority.

The market analysis indicated that the United States has imported $ 535 billion of merchandise goods in 1992. Seven product families have been identified in which FPI believes it can effectively compete. These product families contributed $113 billion to the merchandise import total and represent 21 percent of all merchandise goods imported into the United States in 1992. (See Appendix G - Table 1).

FPI participation would have an insignificant impact on the overall market. If FPI employed 4200 inmates in any one product family, the greatest impact it would create is less than .1 percent of that product family.

Implementation of the offshore growth strategy is dependent on Congressional approval of authorizing legislation. Delays in obtaining this approval is shifting implementation beyond the needed date. (Table 2) Dependence on FPI's traditional markets will continue to make up the needed jobs until implementation of this strategy is enacted.

SELF SUFFICIENCY

FPI visits have been made to U.S. companies that manufacture products in foreign countries f U.S. distribution and consumption. Production operations and requirements have been review determine the feasibility of producing the identified goods and services in the prison environm These reviews included assessments of equipment, staffing, compensation and employee productivity to assess the feasibility of producing the products.

The production operations are similar and compatible with those currently conducted by FPI factory model has been developed to incorporate any additional changes that may be needed to compete with low labor costs for foreign made goods sold in the U.S.

FPI currently has factories which demonstrate the capability to manufacture cost competitive products for distribution to the private sector. Apparel items, wiring harnesses, cable assemb and furniture are just a few examples.

It is expected that FPI will be assisted by its partners to ensure the successful implementation this strategy.

The equipment necessary to undertake such manufacturing activities is very similar to what FI currently uses. Under partnerships with the private sector, two equipment scenarios could occ First, the private sector manufacturer could supply FPI with the necessary equipment. Second could procure the necessary equipment from domestic sources.

Factory staffing levels have been examined to validate that FPI can be self sufficient while producing competitive products with those currently being manufactured offshore. This examination has validated that FPI can compete with products currently being manufactured offshore.

Compensation and productivity rates have been investigated to insure that FPI can compete w manufacturing of products contained in this strategy. Table 3 indicates typical compensation a productivity rates for work being done in the Caribbean Basin. This data compares with FPI indicates that FPI can be competitive in this area of manufacturing. (See Appendix G - Table

The fact that FPI can be competitive with offshore producers is by itself inadequate to provide incentive for companies to return the manufacture of offshore products back to the U.S. FPI obtain the statutory authorization to enter into the offshore growth strategy. This strategy inv work which is currently being done offshore, but the product is sold in the domestic market

In addition, it is believed that incentives are required to insure this strategies successful implementation. It is recommended that:

Tax breaks be provided for private sector jobs created for materials purchased in the United States as opposed to materials currently being purchased offshore.

Tax break incentives be provided for job creation associated with the technical support provided to FPI.

Investment tax credit be offered for new equipment procured by the partner for FPI's use in this strategy.

Tax credits be offered to partner companies that hire post release inmates.

PRIVATE SECTOR IMPACT

Thousand of U.S. firms are currently producing products offshore for U.S. consumption. It is expected that FPI would form partnerships with 15-20 of these companies. It is expected that foreign labor will be reduced approximately at a 1:1 basis under this growth strategy. The impact on labor would be based primarily in the Caribbean Basin, Southeast Asia, and South America.

The overall impact on domestic labor can be positive. Partnerships with private firms can create jobs through the demand for domestically procured raw materials, transportation needs, construction of facilities and equipment acquisition. Through these activities, about 80 percent of FPI's sales dollars are returned to the private sector. Dividing total U.S. business sales by employment approximates the sales level necessary to employ a person in the U.S. Utilizing estimates the potential sales that can be generated from this initiative, it can create in excess of 2,500 domestic jobs in addition to the inmate labor jobs.

U.S. small business has a major presence in producing similar products to those examined by FPI. It is expected that FPI's entry into this market will not impact the current level of small business because of the current location of the jobs being repatriated. Secondary job creation will positively impact small business as FPI procures many of its materials and services from small business.

12/09/93

Table 1.--U.S. trade data
Flow: General imports
Type: Customs value
Partner: WORLD
(Thousands of dollars)

SITC rev 3 commodity	Time period: 1991	1992	January-September 1992	1993
Total selected commodities	246,230,359	271,683,055	197,255,918	220,278,076
7--Machinery and transport equipment	211,364,887	231,801,368	168,574,911	188,419,966
78--Road vehicles (inc air-cushion vehicles)	71,381,715	75,251,974	54,254,517	60,357,512
77--Electrical machry, apparatus & appliances, n.e.s.	35,062,473	39,696,364	29,142,913	33,938,238
75--Office machs and automatic data processing machs	30,064,323	36,393,375	26,117,816	31,267,544
8--Miscellaneous manufactured articles	32,015,998	36,252,864	25,988,988	28,961,401
76--Telecommun & sound record & reproduce app & equip.	23,468,953	25,818,559	18,678,719	19,459,764
74--General industrial machry & equipmt, n.e.s. & pts.	14,291,087	15,380,378	11,580,430	12,616,918
71--Power generating machinery and equipment	14,230,316	15,909,982	11,615,280	12,604,412
89--Miscellaneous manufactured articles, nes	13,654,191	16,045,883	11,359,540	12,603,235
72--Machinery specialized for particular industries	10,914,241	11,825,886	8,580,957	10,031,499
87--Professional scient & control inst & apparatus nes	6,729,219	7,578,283	5,496,142	6,106,881
79--Transport equipment, n.e.s.	8,329,152	8,354,573	6,217,468	5,436,872
88--Photo eqpt, equip & optical goods nes; watch & clk	5,525,343	5,706,839	4,058,063	4,548,957
82--Furniture & pts; bedding, mattresses, etc	4,938,283	5,304,611	4,033,896	4,500,981
5--Chemicals and related products, n.e.s.	2,854,224	3,603,840	2,669,565	2,880,913
73--Metalworking machinery	3,622,627	3,170,277	2,386,811	2,707,208
54--Medicinal and pharmaceutical products	1,935,069	2,651,632	1,945,067	2,042,287
81--Prefab buildings; sanitary, plumb etc fix nes	1,152,171	1,399,748	1,030,355	1,187,752
56--Fertilizers (except crude of group 272)	919,155	952,208	724,497	838,626
2--Crude materials, inedible, except fuels	15,251	24,983	22,454	15,796
27--Crude fertilizers (not of div 56) & crude minerals	15,251	24,983	22,454	15,796
83--Travel goods, handbags and similar containers	16,792	17,500	12,993	13,596
Total of items shown	492,500,719	543,366,111	394,511,836	440,556,151

Source: Compiled from official statistics of the U.S. Department of Commerce.
Top 50 commodities sorted by General imports, Customs value in 1993 January-September.

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12/09/93

Table 1.--U.S. trade data
Flow: General imports
Type: Customs value
Partner: WORLD
(Thousands of dollars)

HS commodity	Time period: 1991	1992	January-September 1992	January-September 1993
Total selected commodities	246,250,359	271,683,055	197,255,918	220,278,076
870323--Pass veh spk-ig int com rcpr p eng >1500 nov 3m cc	28,117,652	29,193,366	20,949,421	21,661,063
870324--Pass veh spk-ig int com rcpr p eng > 3000 cc	16,263,337	13,688,279	9,509,683	12,755,954
854211--Digital monolithic integrated circuits	9,564,810	11,418,460	8,428,222	10,643,346
847330--Parts & accessories for adp machines & units	7,976,570	9,167,254	6,542,215	8,157,992
847193--Storage units for automatic data processing machs	6,332,575	8,483,973	6,084,586	6,959,785
847192--Input or output units for adp machines	6,480,378	7,939,801	5,683,080	6,848,820
870431--Mtr veh trans gds spk ig in c p eng, gvw nov 5 mtn	6,803,144	7,456,434	5,591,479	5,662,129
870899--Parts and accessories of motor vehicles, nesoi	5,875,545	6,501,653	4,820,765	5,079,582
840734--Spark-ignitn reciprctng piston engine etc > 1000 cc	3,052,557	3,389,314	2,422,795	3,033,919
847191--Digital process unit with storage, input output un	3,307,175	3,249,606	2,380,555	2,315,384
852110--Video recrdg/reprduc appar u/n video inr mgntc tpe	2,680,918	3,112,655	2,244,231	2,152,223
870322--Pass mtr veh,spark ign eng, >1000cc but <=1500cc	2,916,295	2,804,487	1,988,468	2,120,090
854430--Insulated wiring sets for vehicles ships aircraft	1,698,818	2,107,700	1,568,228	1,836,903
841191--Turbojet and turboprop parts	2,603,714	2,877,893	2,119,868	1,834,273
852810--Color television receivers	2,033,445	2,480,653	1,719,719	1,814,231
852520--Transmission appr incorporating reception apparatus	1,937,116	2,305,074	1,668,259	1,741,330
847120--Digital adp mach w central process, in-output units	696,783	1,408,662	956,826	1,714,445
880330--Parts of airplanes or helicopters, nesoi	3,564,903	2,917,506	2,285,618	1,713,639
870840--Gear boxes for motor vehicles	1,957,681	2,195,124	1,617,856	1,671,912
870829--Pts & access of bodies of motor vehicles, nesoi	1,613,037	1,811,659	1,320,114	1,625,806
841112--Turbojets of a thrust exceeding 25 kn	1,980,881	2,280,152	1,681,817	1,566,625
950610--Video games used w tv rceivr & pts and accessories	1,291,322	1,862,054	1,067,181	1,538,963
854219--Admolithic integrated circuits, except digital	1,392,592	1,532,595	1,112,809	1,480,687
847199--Adp mach & unit; magntc//ptcl readers etc, nesoi	1,230,622	1,435,823	990,145	1,478,263
852530--Television cameras	2,290,468	1,749,069	1,352,206	1,424,815
852990--Pts,ex antenna,for transmsn,rdr,radio,tv,etc nesoi	1,914,031	1,966,469	1,447,012	1,421,621
860991--Spark-ignition int combustion piston eng pts nesoi	1,639,515	1,588,456	1,187,707	1,302,127
880240--Airplane & ot a/c, unladen weight > 15,000 kg	1,604,993	2,122,432	1,695,741	1,288,225
852721--Radiobroadcast receivers for motor vehicles u rcas	1,333,850	1,456,206	1,093,585	1,182,229
900912--Electrostatic photocopying image, indirect process	1,160,693	1,428,987	1,083,293	1,177,546
870839--Brakes and servo-brakes & pts for motor vehicles	1,124,263	1,320,333	967,996	1,107,651
880230--Airplane & a/c unladen wght > 2000, nov 15000 kg	1,660,819	1,545,520	1,172,303	1,081,542
848180--Taps cocks etc f pipe vat inc thermo control nesoi	1,173,067	1,361,460	1,013,222	1,054,076
900990--Parts and accessories of photocopying apparatus	1,169,147	1,366,568	998,130	1,048,651
851790--Pt elect appr f line telephony or telegraphy etc	875,579	1,111,790	779,190	1,046,994
901890--Instr & appl f medical surgical dental vet, nesoi	1,113,653	1,195,541	854,171	1,022,867
910211--Wrst watch, battery, mechanical disply, base metal	1,161,602	1,259,879	890,874	1,000,902
940190--Parts of seats (ex medical, barber, dental etc)	888,008	1,184,652	867,486	983,672
950390--Toys and parts and accessories, nesoi	1,000,413	1,326,037	971,385	980,767

Source: Compiled from official statistics of the U.S. Department of Commerce.

Top 50 commodities sorted by General imports, Customs value in 1993 January-September.

12/09/93

Table 1.--U.S. trade data
Flow: General imports
Type: Customs value
Partner: WORLD
(Thousands of dollars)

HS commodity	Time period: 1991	1992	January-September 1992	1993
853400--Printed circuits	1,929,639	1,265,241	980,390	954,034
847989--Mach & mechanical appl w individual function nesoi	1,152,476	1,076,378	761,600	934,692
852711--Radiobroadcast receivers, battery type, with rcds.	1,326,752	1,433,844	1,094,214	910,202
853650--Elect switches f voltage not over 1000 v, nesoi	845,053	990,047	725,496	887,261
851782--Telegraphic apparatus nesoi	1,096,527	1,250,644	932,812	876,880
940360--Wooden furniture, nesoi	930,234	974,977	702,387	831,671
870190--Tractors, nesoi	1,035,959	1,060,793	808,420	822,946
850440--Static converters	811,325	1,009,689	725,947	814,022
870821--Safety seat belts for motor vehicles	744,316	869,190	652,939	791,250
851999--Sound reproducing apparatus except cassette, nesoi	846,499	1,117,149	789,933	769,785
851710--Telephone sets	872,914	945,856	702,957	746,990
Total of items shown	150,433,456	165,575,359	119,628,257	133,468,178
Total other	95,796,903	106,107,697	77,627,662	86,809,898

Source: Compiled from official statistics of the U.S. Department of Commerce.
Top 50 commodities sorted by General imports, Customs value in 1993 January-September.

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Table 1.--U.S. trade data
Flow: General imports
Type: Customs value
Partner: WORLD
(Thousands of dollars)

HS commodity	Time period: 1991	1992	January-September 1992	January-September 1993
Total all commodities	488,873,261	532,017,422	390,034,057	426,692,326
2709002000--Crude petroleum testing 25 degrees api or more	30,983,143	31,234,331	22,834,088	24,063,761
8473304000--Parts of adp mach and units not incorporating crt	7,748,130	8,941,372	6,366,434	8,035,646
2709001000--Crude petroleum testing under 25 degrees api	6,170,081	6,985,344	4,925,329	5,507,966
8708995085--Parts,nesoi,of motor vehicles,nesoi, hts8701.8705	2,920,217	6,196,211	4,594,568	4,818,271
8703230046--Pass mtr veh,nesoi, spark ign,4 cyl, 1500-3000cc	6,274,118	5,909,787	4,376,037	4,787,133
8703240056--Pass veh,spark ign, ov 4 bt nt ov 6 cyl,ov 3000 cc	4,920,354	4,595,081	2,998,155	4,647,158
8471933040--Hard disk drive unit, nesoi, w/out extnl pwr suply	4,088,033	5,888,715	4,171,850	4,608,163
8703230066--Pass veh,spark ign,ov 4 bt nt ov 6 cyl,1500-3000cc	3,669,856	5,550,377	3,946,310	4,213,866
8704310040--Truck, spk ign eng, gvw >2.5 but << 5 m tons	4,340,901	5,261,969	4,012,027	3,846,681
9801001099--Products of u.s. returned after being export,nesoi	2,456,163	5,071,951	3,721,497	3,212,100
9999950000--Estimate of low value items under $1251	3,423,504	3,946,532	2,877,240	3,091,863
8407342080--Sp-ig rec pst eng, rd tr,bus,auto,trks,>1000cc,new	3,013,441	3,356,084	2,399,653	3,009,420
8471924025--Display units, nesoi, with color crt	2,192,033	3,195,970	2,248,314	2,969,972
8703240068--Pass veh,spark ign, ov 6 cyl, ov 3000 cc	3,715,664	4,517,865	3,345,163	2,822,097
4801000020--Newsprint paper, standard, in rolls or sheets	3,759,287	3,406,209	2,477,875	2,635,812
8703230044--Pass mtr veh,nesoi, spark ign,4 cyl, 1500-3000cc	4,492,228	4,895,336	3,496,976	2,620,668
8542110072--Nonvolatile ic, digital, silicon,(mos),(seiic),(pla)	2,084,822	2,828,683	2,070,984	2,579,488
8703230068--Pass veh,spark ign,ov 4 bt nt ov 6 cyl,1500-3000cc	2,701,413	3,175,771	2,294,536	2,417,369
2711210000--Natural gas, gaseous	2,334,057	2,728,990	1,870,801	2,394,562
8703230062--Pass veh,spark ign,ov 4 bt nt ov 6 cyl,1500-3000cc	2,204,917	2,817,703	1,806,558	2,268,326
8703270000--Pass mtr veh,spark ign eng, >1000cc but <=1500cc	2,916,285	2,804,487	1,986,468	2,120,090
4407100006--Mixture of spruce/pine/fir wood sawn etc nt treatd	1,385,224	1,948,178	1,483,540	2,022,672
8703230044--Pass veh,spark ign,ov 4 bt nt ov 6 cyl,1500-3000cc	2,770,398	2,906,070	2,229,424	2,017,188
9801001084--Us goods in chptr 84 returned after being exported	1,063,050	2,323,995	1,721,218	1,916,975
7102390050--Diam exc ind wrkd nt st o strng weighing ovr 0.5 ct	1,913,925	2,044,445	1,486,350	1,855,873
8544300000--Insulated wiring sets for vehicles ships aircraft	1,698,818	2,107,700	1,568,228	1,834,903
8471010090--Digtl proc unit w storage,inpt or outpt unit,w/o crt	2,839,662	2,816,021	2,079,674	1,819,992
8411919080--Parts of turbojet or turbopropeller a/c engines	2,333,247	2,824,887	2,087,446	1,802,702
8471200090--Digital adp mch w cpu & input/output unit, w/o crt	626,476	1,361,023	919,298	1,686,609
8706310020--Truck, spk ign eng, gvw << 2.5 metric tons	2,462,263	2,194,466	1,579,651	1,615,648
8542110026--None ic,dig,mos,dram >1000000 bt not >15800000 bit	875,798	1,632,692	1,204,009	1,609,568
8411124000--Turbojet aircraft enginbs, thrust exceeding 25 kn	1,980,677	2,280,152	1,681,817	1,566,860
2710000530--No 6-type fuel oil under 25 degrees api	2,544,522	2,192,361	1,554,693	1,535,625
7102390010--Diam exc ind wrkd nt st o strng weighng nt ov 0.5c	1,550,673	1,604,182	1,237,908	1,488,229
2710001518--Unleaded gasoline, other	0	0	0	1,469,853
8708402000--Gear boxes for vehicles of heading 8703	1,868,105	1,979,565	1,465,773	1,456,536
6403999060--Ftwr so r/p up 1/4h exc pgs ot vl ov $2.50/pr women	1,495,092	1,624,308	1,232,766	1,443,136
8703240058--Pass veh,spark ign, ov 4 bt nt ov 6 cyl,ov 3000 cc	926,041	1,028,262	689,879	1,424,134
7113190000--Gold or platinum jewelry, pt/cld or not, nesoi	1,503,035	1,765,683	1,118,520	1,330,267

Source: Compiled from official statistics of the U.S. Department of Commerce.

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Top 50 commodities sorted by General imports, Customs value in 1993 January-September.

12/09/93

Table 1.--U.S. trade data
Flow: General imports
Type: Customs value
Partner: WORLD
(Thousands of dollars)

HS commodity	Time period: 1991	1992	January-September 1992	1993
8803300010--Other parts,nesoi,of civil airplanes/ helicopters.	2,737,900	2,354,644	1,821,503	1,336,739
9801001088--Us goods in chptr 88 returned after being exported	826,155	2,339,044	1,552,188	1,279,640
8802400040--New passenger transports,non-military,wgt>15,000kg	1,285,285	2,006,936	1,429,903	1,236,965
8703240066--Pass veh,spark ign, ov 6 cyl, ov 3000 cc	2,012,091	1,355,788	1,007,249	1,186,901
9009120000--Electrostatic photocopying image, indirect process	1,160,693	1,428,987	1,083,293	1,177,546
8703230042--Pass mtr veh,nesoi, spark ign,4 cyl, 1500-3000cc	1,789,659	1,247,952	895,689	1,158,793
8521100020--Video cassette & cartridge recorder/players, color	2,435,025	2,902,599	2,090,314	1,148,357
9701100000--Paintings, drawing and pastels exc of heading 4906	1,143,650	1,171,228	873,996	1,146,047
8703230038--Sta wag,nesoi,vans, spark ign,4 cyl, 1500-3000cc	1,810,885	1,551,418	1,038,975	1,143,128
8703240052--Pass veh,spark ign, ov 4 bt nt ov 6 cyl,ov 3000 cc	292,120	452,619	261,742	1,066,430
8708290060--Pts and accessories,nesoi,of bodies hdg 8701,8705.	901,091	1,059,715	756,699	1,063,400
Total of items shown	152,612,204	175,809,665	127,070,498	139,517,648
Total other	336,261,057	356,207,757	262,963,559	286,974,676

Source: Compiled from official statistics of the U.S. Department of Commerce.
Top 50 commodities sorted by General imports, Customs value in 1993 January-September.

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APPENDIX 6.—MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA ON PROHIBITING IMPORT AND EXPORT TRADE IN PRISON LABOR PRODUCTS

The Government of the United States of America and the Government of the People's Republic of China (hereinafter referred to as the Parties),

Considering that the Chinese Government has noted and respects United States laws and regulations that prohibit the import of prison labor products, has consistently paid great attention to the question of prohibition of the export of prison labor products, has explained to the United States its policy on this question, and on October 10, 1991, reiterated its regulations regarding prohibition of the export of prison labor products;

Considering that the Government of the United States has explained to the Chinese Government U.S. laws and regulations prohibiting the import of prison labor products and the policy of the United States on this issue; and

Noting that both Governments express appreciation for each other's concerns and previous efforts to resolve this issue,

Have reached the following understanding on the question of prohibiting import and export trade between the two countries that violates the relevant laws and regulations of either the United States or China concerning products produced by prison or penal labor (herein referred to as prison labor products).

The Parties agree:

1. Upon the request of one Party, and based on specific information provided by that Party, the other Party will promptly investigate companies, enterprises or units suspected of violating relevant regulations and laws, and will immediately report the results of such investigations to the other.

2. Upon the request of one Party, responsible officials or experts of relevant departments of both Parties will meet under mutually convenient circumstances to exchange information on the enforcement of relevant laws and regulations and to examine and report on compliance with relevant regulations and laws by their respective companies, enterprises, or units.

3. Upon request, each Party will furnish to the other Party available evidence and information regarding suspected violations of relevant laws and regulations in a form admissible in judicial or administrative proceedings of the other Party. Moreover, at the request of one Party, the other Party will preserve the confidentiality of the furnished evidence, except when used in judicial or administrative proceedings.

4. In order to resolve specific outstanding cases related to the subject matter of this Memorandum of Understanding, each Party will, upon request of the other Party, promptly arrange and facilitate visits by responsible officials of the other Party's diplomatic mission to its respective companies, enterprises or units.

This Memorandum of Understanding will enter into force upon signature.

DONE at Washington, in duplicate, this seventh day of August, 1992, in the English and the Chinese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA:

Statement of Cooperation on the Implementation of the Memorandum of Understanding between The United States Of America and The People's Republic Of China on prohibiting Import and Export Trade in Prison Labor Products

As the Chinese Government acknowledges and respects United States Laws concerning the prohibition of the import of prison labor products, and the United States Government recognizes and respects chinese legal regulations concerning the prohibition of the export of prison labor products;

As China and the United States take note and appreciate the good intentions and efforts made by both sides in implementing the "memorandum of understanding" signed in August 1992;

The Chinese Government and the United States Government agree that conducting investigations of suspected exports of prison labor products destined for the United States requires cooperation between both sides in order to assure the enforcement of the relevant laws of both countries. Both sides agree that they should stipulate clear guidelines and procedures for the conduct of these investigations. Therefore, both sides agree to the establishment of specialized procedures and guidelines according to the following provisions:

First, when one side provides the other side a request, based on specific information, to conduct investigations of suspected exports of prison labor products destined for the United States, the receiving side will provide the requesting side a comprehensive investigative report within 60 days of the receipt of said written request. At the same time, the requesting side will provide a concluding evaluation of the receiving side's investigative report within 60 days of receipt of the report.

Second, if the United States Government, in order to resolve specific outstanding cases, requests a visit to a suspected facility, the Chinese Government will, in conformity with Chinese laws and regulations and in accordance with the MOU, arrange for responsible United States diplomatic mission officials to visit the suspected facility within 60 days of the receipt of a written request.

Third, the United States Government will submit a report indicating the results of the visit to the Chinese Government within 60 days of a visit by diplomatic officials to a suspected facility.

Fourth, in cases where the U.S. Government presents new or previously unknown information on suspected exports of prison labor products destined for the U.S regarding a suspected facility that was already visited, the Chinese Government will organize new investigations and notify the U.S. side. If necessary, it can also be arranged for the U.S. side to again visit that suspected facility.

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Fifth, when the Chinese government organizes the investigation of a suspected facility and the U. S side is allowed to visit the suspected facility, the U.S. side will provide related information conducive to the investigation. In order to accomplish the purpose of the visit, the chinese side will, in accordance with its laws and regulations, provide an opportunity to consult relevant records and materials on-site and arrange visits to necessary areas of the facility. The U.S. side agrees to protect relevant proprietary information of customers of the facility consistent with the relevant terms of the prison labor MOU.

Sixth, both sides agree that arrangements for U.S. diplomats to visit suspected facilities, in principle, will proceed after the visit to a previous suspected facility is completely ended and a report indicating the results of the visit is submitted.

Both sides further agree to continue to strengthen already established effective contacts between the concerned ministries of the Chinese Government and the U.S. Embassy in Beijing and to arrange meetings to discuss specific details when necessary to further the implementation of the mou in accordance with the points noted above.

Done at Beijing, in duplicate, this thirteenth day of March, 1994, in the english and the chinese languages, both texts being equally authentic.

APPENDIX 7.—NEWSPAPER ARTICLE BY DANIEL SOUTHERLAND, "FIRMS CITED OVER IMPORTS FROM CHINA," THE WASHINGTON POST, MAY 19, 1994, at B13

Firms Cited Over Imports From China

Allegations Over Forced-Labor Goods Are Part of Trade Status Fight

By Daniel Southerland
Washington Post Staff Writer

A former Chinese political prisoner yesterday accused two U.S. companies of illegally importing goods produced by forced labor in China.

Harry Wu, who spent 19 years in Chinese labor camps, said he recently gathered evidence that despite an agreement with the United States to prohibit such trade, China still exports the products to the United States.

Wu, who has made three unauthorized trips into China in recent years, said he visited 26 forced-labor facilities across the country during his most recent trip.

According to Wu, who returned from China 11 days ago, officials at a prison factory in Shandong told him that one of the foreign companies they supplied was Waxman Industries Inc., a leading maker and distributor of plumbing products based in Bedford Heights, Ohio.

Waxman Chairman Melvin Waxman categorically denied the allegation and said Wu was trying to gain publicity for efforts to disrupt an extension of China's most-favored-nation trading status by President Clinton.

Wu, 57, spoke at a press conference in Washington less than three weeks before Clinton must decide whether to renew the trading status, enabling Chinese imports into this country to receive the same low tariffs as most U.S. trading partners. Wu's trip was financed largely by labor unions, according to Jeffrey Fiedler, an official with the AFL-CIO who assisted Wu in his investigation.

Wu and Fiedler said they could not say whether Waxman Industries employees knowingly purchased forced-labor products, whose import is banned under U.S. law. They said they would present their findings to the U.S. Customs Service.

HARRY WU
. . . visited 26 prison facilities

They said that according to shipping documents, Shandong Steel Pipes United Corp. shipped 183,041 pounds of steel pipe to two subsidiaries of Waxman in Jacksonville, Fla.

Waxman said 99 percent of his company's steel pipe was produced at its plant in Tijuana, Mexico, but that the company imported steel castings from China worth less than $5 million a year.

U.S. business groups have been urging Clinton to extend the MFN status. They contend that its loss would cost U.S. businesses billions of dollars in trade and investment opportunities. Human rights groups and many in Congress are pressing the president to revoke the status or to extend it only under strict conditions.

One of the conditions set down by Clinton for the renewal of MFN is Chinese compliance with a 1992 U.S.-China agreement prohibiting exports of products made by forced labor and calling for prompt investigations of Chinese enterprises believed to be producing and shipping such goods.

Wu also said he had evidence that Cosmos Trading Co. in Houston was importing hand tools produced at a forced-labor camp in Lanpeng in China's Zhejang Province. Wu said he visited the camp, photographed it and talked with an official at the Hangzhou Shenda Tool Factory, who told him that one of its U.S. customers was Cosmos.

Cosmos said that none of its officials was available to comment.

Waxman said he had visited the Shandong Steel Pipes United Corp. in Shandong Province in 1992 and said he is certain that it is not a prison factory. But Wu and Fiedler said foreign visitors to the company usually are taken to corporate headquarters, which is used mainly for marketing, and not to the mass production facilities, which go under another name and which Wu said he visited.

Wu declined to describe how he managed to visit well-guarded prison facilities. On a previous trip in 1991, he posed as a U.S.-based business executive.

According to U.S. Customs officials, it is extremely difficult to determine the magnitude of China's forced-labor exports because they are often falsely labeled and sold through intermediaries. China denies that it has a policy of exporting forced-labor products.

In 1993, the Customs Service launched an investigation of Columbus McKinnon Corp. in Amherst, N.Y., based on findings made by Wu. Customs also seized a sizable quantity of imports, according to the company.

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APPENDIX 8.—LETTER FROM NEAL MILLER, PRINCIPAL ASSOCIATE, INSTITUTE FOR LAW JUSTICE (WITH ATTACHMENT), TO JARILYN DUPONT, ASSISTANT COUNSEL, SUBCOMMITTEE ON INTELLECTUAL PROPERTY AND JUDICIAL ADMINISTRATION, JULY 1, 1994

1018 Duke Street
Alexandria, Virginia 22314
703-684-5300
FAX 703-739-5533

July 1, 1994

Ms. Jarilyn Dupont
Subcommittee on Intellectual Property and Judicial Administration
207 Cannon House Office Building
Washington, DC 20515

Dear Ms. Dupont:

As a follow-up to my testimony on Representative Wolf's proposed legislation for expanding Federal Prison Industries marketing authority, I thought you might be interested in the attached Wisconsin law. The language of this statute is, I think, an interesting method for defining overseas production in a manner that does not easily lend itself to abuse. I would further amend the Wisconsin statute language to specify that work done under the foreign contract was accomplished under a subminimum wage equivalent.

Sincerely,

Neal Miller
Principal associate

attachment

303.06. Prison products; sale

(1) Except as authorized in sub. (2), no goods, except farm machinery, farm implements and tools, cordage rope and ply goods, manufactured wholly or partly by inmates in any state, city or county penal institution may be offered for sale in the open market.

(2) The department may enter into or renew a contract with a manufacturer or distributor to have prison industries provide products, components or services if at the time that the contract is originally entered into the products, components or services have been supplied to the manufacturer or distributor for the previous 12 months by a facility outside the United States.

Historical and Statutory Notes

Source:
L.1939, c. 501.
St.1939, § 56.22.
L.1947, c. 366.
St.1947, § 56.06.
1983 Act 272, § 3, eff. April 27, 1984.
St.1987, § 56.06.
1989 Act 31, § 1685, eff. Jan. 1, 1990.
1989 Act 283, §§ 5, 6, eff. May 4, 1990.
1989 Act 283, §§ 5, 6 renumbered and amended the section as subsec. (1) and created subsec. (2).

Administrative Code References

Corrections industries, see section DOC 313.01 et seq.

Notes of Decisions

In general 1

1. In general

Department of public welfare could not, under St.1945, § 56.01 (see, now, § 303.01), sell prison manufactured articles other than those named in St.1945, § 56.06 (see, now, this section), to such nonprofit organizations as denominational hospitals, the American Legion and Veterans of Foreign Wars. 36 Op.Atty Gen. 599 (1947).

303.065. Work release plan for prison inmates

(1) The department may grant work release privileges to any person incarcerated within the state prisons, except that no person serving a life sentence may be considered for work release until he or she has reached parole eligibility under s. 304.06 (1)(b) or 973.014, whichever is applicable.